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Executive Orders

EXECUTIVE ORDER MJF 01-30

Bond Allocation East Baton Rouge
Mortgage Finance Authority

WHEREAS, Executive Order No. MJF 2001-21, issued on May 17, 2001, granted a private activity bond allocation from the 2001 private activity bond volume limit to the East Baton Rouge Mortgage Finance Authority in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2001-21 in order to extend the time period in which the bonds may be delivered to initial purchasers;

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

SECTION 1: Section 3 of Executive Order No. MJF 2001-21, issued on May 17, 2001, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the year of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

SECTION 2: All other sections of Executive Order No. MJF 2001-21 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 15th day of August, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0109#001

EXECUTIVE ORDER MJF 01-31

Anesthesiologist Assistant Legislation Commission

WHEREAS, House Bill No. 1828 of the 2001 Regular Session of the Louisiana Legislature (hereafter "House Bill No. 1828") was passed for the laudable purpose of ensuring that only competent and skilled medical personnel participate in the delivery of medical care within the state of Louisiana;

WHEREAS, House Bill No. 1828 was vetoed by the governor because it would have statutorily prohibited the delegation, by a physician, of any medical tasks or duties related to the administration of anesthesia to an

anesthesiologist assistant, thereby both prohibiting a line of work in the field of medicine, and a physician from delegating tasks to a supervised assistant for the treatment of the physician's patient; and

WHEREAS, the best interests of the citizens of the state of Louisiana are served by creating a commission charged with the duty of proposing draft legislation that will fulfill the intended purpose of House Bill No. 1828 and establish educational, training, licensing, and performance requirements for anesthesiologist assistants;

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

SECTION 1: The Anesthesiologist Assistant Legislation Commission (hereafter "Commission") is established within the executive department, Office of the Governor.

SECTION 2: The duties of the Commission shall include, but are not limited to, proposing draft legislation that accomplishes the following:

A. Fulfills the purpose of House Bill No. 1828 of the 2001 Regular Session of the Louisiana Legislature by ensuring that only competent and skilled medical personnel participate in the delivery of medical care within the state of Louisiana; and

B. Sets forth the prerequisite qualifications and minimum education requirements and/or training levels necessary to become and/or continue to be licensed as an anesthesiologist assistant; the process for initial and renewal licensing of an anesthesiologist assistant; the scope of the duties, functions, and/or authority of an anesthesiologist assistant; and the circumstances under which a licensed anesthesiologist assistant shall be authorized to perform such duties, functions and/or authority.

SECTION 3: On or before October 1, 2001, the Commission shall submit draft legislation to the governor and the Louisiana Legislature which addresses the issues set forth in Section 2 of this Order.

SECTION 4: With the exception of the chairs of the House and Senate Health and Welfare Committees, and/or their designees, all members of the Commission shall be appointed by the governor. All non-ex-officio members shall serve at the pleasure of the governor. The Commission shall be composed of thirty-six (36) members selected as follows:

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

B. the chair of the House Health and Welfare Committee, or the chair's designee;

C. the chair of the Senate Health and Welfare Committee, or the chair's designee;

D. three (3) members of the Louisiana Legislature;

E. the chancellor of the Louisiana State University Health Sciences Center New Orleans campus, or the chancellor's designee;

F. the president of Xavier University of Louisiana, or the president's designee;

G the chair of the Board of Regents, or the chair's designee;

H the president of the Louisiana State Medical Society, or the president's designee;

I the president of the Louisiana State Board of Medical Examiners, or the president's designee;

J the president of the Louisiana Hospital Association, or the president's designee;

K the president of the Metropolitan Hospital Council of New Orleans, or the president's designee;

L the president of the Louisiana Association of Independent Colleges and Universities, or the president's designee;

M the president of the Louisiana Chapter of the American College of Surgeons, or the president's designee;

N the president of the Louisiana Society of Anesthesiologists, or the president's designee;

O the director of the American Academy of Anesthesiologist Assistants, or the director's designee;

P the executive vice-president of Alton Ochsner Medical Foundation, or the executive vice-president's designee;

Q the president of the Louisiana State Board of Nursing, or the president's designee;

R the president of the Louisiana State Nurses Association, or the president's designee;

S the president of the Louisiana Association of Nurse Anesthetists, or the president's designee;

T five (5) retired or practicing certified registered nursing anesthetists licensed to practice in the state of Louisiana;

U one (1) anesthesiologist assistant;

V three (3) anesthesiologists licensed to practice in the state of Louisiana;

W four (4) physicians licensed to practice in the state of Louisiana; and

X two (2) citizens of the state of Louisiana selected at-large.

SECTION 5: The chair of the Commission shall be appointed by the governor from the membership of the Commission. All other officers, if any, shall be elected by the members of the Commission from its membership.

SECTION 6: The Commission shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7: Support staff, facilities, and resources for the meetings of the Commission and the performance of its duties shall be provided and/or coordinated by the Office of the Governor.

SECTION 8:

A. Commission members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Commission.

B. Commission members who are also an employee or elected public official of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency, and/or office.

C. Commission members who are also a member of the Louisiana Legislature may seek a per diem from the House of Representatives or the Senate, as appropriate, for their attendance at Commission meetings and/or service on the Commission.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 16th day August, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0109#002

EXECUTIVE ORDER MJF 01-32

Louisiana NFL Stadium Advisory Commission

WHEREAS, Executive Order No. MJF 2001-28, issued on July 25, 2001, established the Louisiana NFL Stadium Advisory Commission (hereafter "Commission") as an advisory body to the governor and the Louisiana Legislature on matters related to the development of a new national football league stadium and/or the re-engineering and/or renovation of the Louisiana Superdome;

WHEREAS, the Board of Commissioners of the Louisiana Stadium and Exposition District is the management body and a key advisory body for the governor on all matters related to the Louisiana Superdome and/or all other properties belonging to, or under the control of, the Louisiana Stadium and Exposition District; and

WHEREAS, the Commission will benefit during its evaluation and decision-making process from the participation of members of the Board of Commissioners of the Louisiana Stadium and Exposition District and the Board, in turn, will benefit from direct participation in the deliberations of the Commission;

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

SECTION 1: Section 3 of Executive Order No. MJF 2001-28, issued on July 25, 2001, is amended to provide as follows:

The Commission shall be composed of fifty-five (55) members. All non-ex-officio members shall serve at the pleasure of the governor.

A. fifty-two (52) voting members selected as follows:

1. ten (10) members of the Louisiana Legislature, selected from the greater New Orleans area;

2. three (3) members of the Louisiana Legislature, selected from the state of Louisiana at large;

3. the mayor of the city of New Orleans, or the mayor's designee;

4. the president of the parish of Jefferson, or the president's designee;

5. two (2) members of the New Orleans City Council; and

6. thirty-five (35) notable citizens of the state of Louisiana, predominately selected from the greater New Orleans area, who have significant academic and/or professional expertise in one (1) or more of the following areas:

- a. business or industry;
- b. government,
- c. public administration;
- d. law; and/or
- e. economics.

B. Three (3) non-voting members selected from the membership of the Board of Commissioners of the Louisiana Stadium and Exposition District.

SECTION 2: All other sections, subsections, and/or paragraphs of Executive Order No. MJF 2001-28 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of August, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0109#003

EXECUTIVE ORDER MJF 01-33

Bond Allocation C The Finance Authority of New Orleans

WHEREAS, Executive Order No. MJF 2001-24, issued on May 25, 2001, granted a private activity bond allocation from the 2001 private activity bond volume limit to The Finance Authority of New Orleans in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2001-24 in order to extend the time period in which the bonds may be delivered to initial purchasers;

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

SECTION 1: Section 3 of Executive Order No. MJF 2001-24, issued on May 25, 2001, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the year of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

SECTION 2: All other sections of Executive Order No. MJF 2001-24 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of August, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0109#004

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of State Travel

General Travel CPPM 49
(LAC 4:V.1505 and 1506)

Editor's Note: This section is being repromulgated to correct an error. This Policy and Procedure Memoranda can be viewed on pages 802-809 of the June 20, 2001 edition of the *Louisiana Register*.

Title 4 ADMINISTRATION

Part V. Policy and Procedure Memoranda

§1505. Lodging and Meals

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 thirty-one 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 thirty-one 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. and extends beyond 9 a.m. on single day travel; or 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 reimbursement shall only be made for lunch when 1) travel extends over at least one night or 2) if traveler is in travel status for 12 hours or more in duration. 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. and extends beyond 8 p.m. on single day travel; or 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.

3. Alcohol. Reimbursement for alcohol is prohibited.

B. Exceptions

1. Twenty Five Percent Over Allowances. Department heads may allow prior approval for their employees to exceed the lodging and meals provisions of these regulations by no more than 25 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 (see definitions under *Authorized Persons*) 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. State officers entitled to actual expense reimbursements are only exempted from meals and lodging rates; they are subject to the time frames and all other requirements as listed in the travel regulations.

C. Traveler's Meals (including tax and tips).

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

	In-State	O/S Includes N.O.	High Cost and NYC
Breakfast	\$6	\$6	\$8
Lunch	\$8	\$9	\$10
Dinner	\$12	\$14	\$19
	\$26	\$29	\$37

2. Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. Partial meals such as continental breakfasts or airline meals are not considered meals. If meals of state officials exceed these allowances, receipts are required.

D. Conference Meals. Cost of meals direct billed to agency in conjunction with state-sponsored in-state conferences exclusive of tax and mandated gratuity.

Lunch In-State excluding New Orleans \$10

Lunch - New Orleans \$12

Conference Refreshment Expenditures: Cost for a meeting, conference or convention are to be within the following rates: (Note: refreshment expenses are not applicable to an individual traveler) served on agency's property: not to exceed \$2.00 per person, per morning and/or afternoon sessions served on offsite properties that require catered services: not to exceed \$3.50 exclusive of tax and mandated gratuity per person, per morning and/or afternoon sessions.

E. Lodging (Employees will be reimbursed lodging rate, plus tax, receipt required)

\$55 In-state (except as listed)

\$65 Baton Rouge

\$70 Bossier City, Lake Charles, Shreveport
(Sulphur will be considered a suburb of Lake Charles)

\$90 New Orleans, (Gretna, Kenner, Metairie will be considered suburbs of New Orleans, for lodging only)

- \$65 Out-of-State (except those listed)
 - \$105 High cost (Atlanta, Baltimore, Boston, Cleveland, Dallas, Denver, Detroit, Houston, Los Angeles, Miami, Nashville, Oakland, Ca., Philadelphia, Phoenix, Pittsburgh, Portland, Or., San Diego, St. Louis, Seattle, Tampa, Fl., Wilmington, De., all of Alaska or Hawaii)
 - \$120 Chicago, San Francisco, Washington, D.C.
 - \$165 New York City
- *The inclusion of suburbs shall be determined by the department head on a case-by-case basis.

F. Conference Lodging (Employees will be reimbursed lodging rate, plus tax, receipt required)

1. Travelers may be reimbursed expenses for conference hotel lodging per the following rates, if the reservations are made at the actual conference hotel. When reservations are not available at the conference hotel and multi-hotels are offered in conjunction with a conference, traveler shall seek prices and utilize the least expensive. In the event all conference hotels are unavailable, then the traveler is subject to making reservations within the hotel rates as allowed in Section E, above.

- \$65 In-state (except as listed)
 - \$70 Baton Rouge
 - \$80 Bossier City, Lake Charles, Shreveport
 - \$110 New Orleans, state sponsored conferences
 - \$140 Out-of-state and New Orleans for non-state sponsored conferences
 - \$165 New York City
- *The inclusion of suburbs shall be determined by the department head on a case-by-case basis.

2. For conferences hosted by the state you must either use the state contracted travel services or solicit three competitive quotes to include sleeping rooms, meeting rooms, meals and breaks, etc.

3. No reimbursements are allowed for functions not relating to a conference, i.e. tours, dances, etc.

G Extended Stays. For travel assignment involving duty for extended periods (31 or more consecutive days) 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:802 (June 2001), repromulgated LR 27:0000 (September 2001).

§1506. Parking and Related Parking Expenses

A. Parking for the Baton Rouge Airport. Actual expense will be paid up to a maximum daily allowance of \$3.50. No receipt required.

Note: current contract rate is available from the Baton Rouge Airport Parking for the outside, fenced lot. Not in the parking garage.

B. Parking for the New Orleans Airport. Actual expense will be paid up to a maximum daily allowance of \$6. No receipt required. Park 'N Fly : \$6 daily and \$36 weekly.

C. Travelers using motor vehicles on official state business will be reimbursed for reasonable storage fees, for all other parking except as listed in #1 and #2 above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed \$1 per in and \$1 per out, per day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1257 (June 2000), LR 27:0000 (June 2001), repromulgated LR 27:802 (September 2001), repromulgated LR 27:

Mark C. Drennen
Commissioner

0109#0001

Emergency Rules

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Racing Commission

Claiming Rule (LAC 35:XIII.Chapter 99)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953.B, and pursuant to the authority granted under R.S. 4:141 et seq., amends the following emergency rule effective August 15, 2001, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule because it is no longer desirable nor necessary to limit someone to claim only one horse out of a claiming race; it is more beneficial to all parties to increase that limit to two. This is consistent with other racing jurisdictions.

Title 35

HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9915. Number of Horses Claimed Per Race

A. No person shall claim more than two horses in a race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), amended LR 3:42 (January 1977), LR 4:285 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 27:

§9939. Number of Claims on Stable or Trainer

A. When a trainer is training for more than one owner, only two claims from that stable will be allowed for any one race. Only one claim from owners having the same trainer will be allowed for any one horse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission LR 2:447 (December 1976), repromulgated LR 3:42 (January 1977), amended LR 4:286 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 27:

Charles A. Gardiner III
Executive Director

0109#024

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Racing Commission

Pick Four (LAC 35:XIII.Chapter 116)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953.B, and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective August 15, 2001, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to adopt this chapter of rules to allow for "pick four" wagering at all Louisiana tracks, a new form of wagering potentially increasing the handle, thereby benefitting the racing associations, horsemen and the state. Consistent with other major racing jurisdictions.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 116. Pick Four

§11601. Description; Selection; Principle

A. The pick four is a form of pari-mutuel wagering. Bettors select the first horse in each of four consecutive races designated as the pick four by the permit holder. The principle of a pick four is in effect a contract by the purchaser of a pick four ticket to select the winners of each of the four races designated as the pick four. The sale of pick four tickets other than from pari-mutuel machines shall be deemed illegal and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11603. Wagering Pool

A. The pick four pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta, quinella or any other wagering pool. The pick four pool is a pool wherein the bettor is required to select four consecutive winning horses and is not a parlay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11605. Denominations

A. Pick four tickets shall be sold in not less than \$1 denominations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11607. Approval; Notation

A. Races in which pick four pools are conducted shall be approved by the commission and clearly designated in the program, and pick four tickets will be clearly marked as pick four tickets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11609. Procedure

A. After the wagering closes for the first race of the four designated pick four races, the commission will be deducted from the pari-mutuel pool in accordance with Louisiana law. The remaining net pool, subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winner in all four races comprising the pick four and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

1. In the event no ticket is sold combining winners of the four races comprising the pick four, the holders of tickets which include the winners of any three of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

2. In the event no ticket is sold combining the winners of three of the four races comprising the pick four, the holders of tickets which include the winners of any two of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

3. In the event no ticket is sold combining the winners of two of the four races comprising the pick four, the holders of tickets which include the winner(s) of any one of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11611. No Winning Ticket

A. In the event no winning ticket is sold that would require the distribution of the pick four pool as mentioned in §11609, the association shall make a complete refund of the pick four pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11613. Cancelled Races

A. If for any reason one or more of the races comprising the pick four is/are cancelled or declared "no race," the net pool shall be distributed as provided in §11609.

B. In the event the pick four pool is opened and wagers accepted, and all four races comprising the pick four are cancelled for any reason, the association shall make a complete refund of the pick four pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11615. Dead Heats

A. In the event of a dead heat for win between two or more horses in any pick four race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11617. Closing Time; Disclosure

A. No pari-mutuel ticket for the pick four pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the four races comprising the pick four except for such refunds on pick four tickets as required by this regulation, and no person shall disclose the number of tickets sold in the pick four pool or the number or amount of tickets selecting winners of pick four races until such time as the stewards have determined the last race comprising the pick four to be official. At the conclusion of the third of the four races comprising the pick four, the association may display potential distributions to ticket holders depending upon the outcome of the fourth race of the pick four.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11619. Entry or Field

A. Those horses constituting an entry or a field as defined within the rules of racing shall race in any pick four race as a single wagering interest for the purpose of the pick four pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry or field selection in such race shall have no effect with respect to the status of such entry and/or field as a viable wagering interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11621. Scratches and Non-Starters

A. At anytime after wagering begins on the pick four pool should a horse, entire betting entry or field be scratched, excused or declared a non-starter in any pick four race, no further tickets selecting such horse, betting entry or field shall be issued, and wagers upon such horse, betting entry or field, for purposes of the pick four pool shall be deemed wagers upon the horse, betting entry or field upon which the most money has been wagered in the win pool at the close of win pool betting for such race. In the event of a money tie in the win pool, the tied horse, betting entry or field with the lowest running number, as designated by the official racing program, shall be designated as the favorite for substitution purposes. For the purpose of this Section, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the stewards. After close of betting, there shall be no refund, except as provided in §11611 or §11613.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11623. Display

A. These rules shall be prominently displayed in the betting area of the association conducting the pick four.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

§11625. Unforeseen Circumstances

A. Should circumstances occur which are not foreseen in these rules, questions arising thereby shall be resolved by the association and/or commission in accordance with general pari-mutuel practices. Decisions regarding distribution of the pick four pools shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 27:

Charles A. Gardiner III
Executive Director

0109#023

DECLARATION OF EMERGENCY

**Office of the Governor
Groundwater Management Commission**

Groundwater Management (LAC 70:XIII.Chapters 1-5)

Pursuant to the provisions of the Louisiana Administrative Procedure Act, R.S. 49:953.B.1 and 2, 954.B.2, as amended, on May 18, 2001, the Groundwater Management Commission (Commission) approved the subject emergency rules for hearing regarding the designation of Critical Groundwater Areas on August 20, 2001. The Emergency Rules satisfy the requirements mandated by Act 446 (Act) of the 2001 Regular Session, which states that the Commission shall develop and promulgate rules and regulations for the determination of critical groundwater areas and possible limitation of access to groundwater sources and response to emergency situations. Failure to designate and protect critical ground areas may endanger drinking water, as well as the ability of industry and agriculture to utilize these fresh water aquifers for commercial purposes. The Act specifically requires that public hearing be held in such matters and the attached emergency rules provide the mechanism to meet that requirement.

These Rules will be in effect for 120 days.

Title 70

TRANSPORTATION

Part XIII. Water Management and Control

Subpart 2. Groundwater Management

Chapter 1. General Provisions

§101. Applicability

A. These rules shall be applicable to hearings relative to the commission's jurisdiction to determine critical groundwater areas, potential critical ground water areas and a ground water emergency. The rules shall not alter or change the right of the commission to call a hearing for the purpose of taking action with respect to any matter within its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

§103. Definitions

A. The words defined herein shall have the following meanings when used in these rules. All other words used and not defined shall have their usual meanings unless specifically defined in Title 38 of the Louisiana Revised Statutes.

Beneficial Purpose or Beneficial Use Cthe technologically feasible use of ground water for domestic, municipal, industrial, agricultural, recreational or therapeutic purposes or any other advantageous use.

Commission CGround Water Management Commission authorized by R.S.38:3099.3.A.

Critical Ground Water Area (CGWA) Can area where sustainability of an aquifer is not being maintained under current or projected usage or under normal environmental conditions which are causing a serious adverse impact to an aquifer.

Ground Water Cwater suitable for any beneficial purpose percolating below the earth's surface, including water suitable for domestic use, supply of a public water system or containing fewer than 10,000 mg/L total dissolved solids.

Ground Water Emergency Cthe depletion of a ground water source or lack of access to a ground water source or the likelihood of excessive pumping, any of which has occurred or may occur, as a result of a natural force or a man-made act.

Person Cany natural person, corporation, association, partnership, receiver, tutor, curator, executor, administrator, fiduciary, or representative of any kind, or any governmental entity.

Potential Critical Ground Water Area Ca ground water area where drilling of new well(s) or pumpage at current rates could result in creation of a CGWA.

Sustainability Cthe development and use of ground water in a manner that can be maintained for the present and future time without causing unacceptable environmental, economic, social, or health consequences.

User Cany person making any beneficial use of ground water from a well or wells owned or operated by such person or from a well or wells owned or operated solely for the production of water used by such person.

Well or Water Well Cany well drilled or constructed for the principal purpose of producing ground water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

Chapter 3. Application Procedure

§301. Who May Apply

A. Any person owning property, a water well or utilizing water from an aquifer within the jurisdiction of the commission shall have the right to file an application with the commission calling for a public hearing relative to said aquifer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

§303. Notice of Intent

A. A Notice of Intent to file an application will be published in the official parish journals. Such notice will include:

1. applicant's name, address, and telephone number;
2. a brief description of the subject matter of the proposed application;
3. a brief description of location including parish, section, township, range, and a map which shall be sufficiently clear to readily identify the location of the proposed CGWA;
4. a statement that if the area is designated a CGWA that ground water use may be restricted;
5. a statement that all comments should be sent to:
 Commissioner of Conservation
 Post Office Box 94275
 Baton Rouge, LA 70804-9275
 ATTN: Groundwater Management Commission Staff

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

§305. Application

A. The application shall be filed in duplicate no sooner than 30 days and no later than 60 days after publication of the Notice of Intent. The application must include:

1. the name, address, telephone number, and signature of applicant;
2. a statement identifying the applicant's interest which is or may be affected by the subject matter of the application;
3. identification of the source of ground water (aquifer) to which the application applies;
4. identification of the affected area, including its location (section, township, range and parish) and U.S. Geological Survey topographic map of appropriate scale (1:24,000, 1:62,500, 1:100,000, or LA -DOTD Louisiana parish map outlining the perimeter of the area. Submittal of digital data is recommended. Digital map data in vector and/or raster formats should have supporting metadata;
5. statement of facts and evidence supporting the application and a statement on how no action would likely impact ground water resources in the area subject to request.
6. the original published page from the official parish journal evidencing publication of Notice of Intent to apply to the Ground Water Management Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

§307. Criteria for a Critical Ground Water Designation

A. Application for designation of a critical ground water area or potential critical ground water area must contain a statement of facts and supporting evidence substantiating that at least one of the following criteria applies to the source of ground water (aquifer) within such proposed area:

1. water levels in the source of ground water show declines that will render such source inadequate for current or immediate future demands without some action being taken; and/or
2. concentrations of chlorides, total dissolved solids (TDS) or other impurities that will render the source of

ground water unsuitable for domestic use have shown annual increases that will render such source unsuitable for current or immediate future demands without some action being taken; and/or

3. overall withdrawals annually have exceeded the recharge of the source of ground water that will render the source inadequate for current or immediate future demands without some action being taken.

B. Using all available data presented to the commission, an analysis will be made by the commission to determine if the area under consideration meets the criteria to be designated a critical ground water area or could become a critical ground water area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

§309. Commission Review

A. Within 30 days of receipt of an application, the applicant will be notified whether or not the application is complete. If the commission determines an application is incomplete, the applicant shall be notified in writing of the reasons for that determination and the information needed to make such application complete. The commission may reject and return any application determined to be without merit or frivolous.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

§311. Recordkeeping

A. The commission shall compile and maintain at the Office of Conservation a record of all public documents relating to any application filed with the commission. The commission shall make records available for public inspection free of charge and provide copies at a reasonable cost during all normal business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

Chapter 5. Hearing

§501. Notice Of Hearing

A. Upon determination that an application is complete, the commission shall schedule a public hearing in the locality of the area affected by the application. Notice of the hearing shall contain the date, time and location of the hearing and the location of materials available for public inspection. Such notice shall be published in the official state journal and official parish journal at least 30 calendar days before the date of such hearing. A copy of the notice shall be sent to the applicant, any person requesting notice, and local, state and federal agencies which the commission determines may have an interest in the decision relating to the application.

B. If the commission calls a hearing to consider action with respect to a specific aquifer and area, notice shall be given as above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

§503. Rules of Conduct

A. Hearings scheduled pursuant to those rules will be fact finding in nature and witnesses shall not be subject to cross examination. The chairman of the commission, or a designee, shall serve as presiding officer, and shall have the discretion to establish reasonable limits upon the time allowed for statements. The applicant shall first present all relative information supporting their proposal followed by testimony and/or evidence from local, state and federal agencies and others. All interested parties shall be permitted to appear and present testimony, either in person or by their representatives. All hearings shall be recorded verbatim. Copies of the transcript shall be available for public inspection at the Office of Conservation. The testimony and all evidence received shall be made part of the administrative record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

§505. Decision

A. A written decision shall be issued in the form of an order by the commission based on scientifically sound data gathered from the application, the participants in the public hearing and any other relevant information. The order shall contain a statement of findings and such order will be sent to the applicant, participants in the hearing and any other persons requesting a copy thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 27:

Karen K. Gautreaux
Chairperson

0109#025

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.1 et seq. and shall be in effect for the maximum period allowed under the 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 adopted a rule May 20, 1999, governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 25, Number 5). This Rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 (the Rural Hospital Preservation Act) of the 1997 Legislative Session. The May 20, 1999 Rule was subsequently amended to revise the disproportionate share qualification criteria for small rural hospitals in compliance with Senate Concurrent

Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

The Bureau subsequently adopted a Rule to establish an additional disproportionate share hospital group, for state fiscal year 2001 only, composed of large public non state hospitals in order to facilitate the transfers of public funds from qualifying health care providers as directed in Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature (*Louisiana Register*, Volume 27, Number 2).

Act 1074 of the 2001 Regular Session of the Louisiana Legislature amended the Rural Hospital Preservation Act to add certain hospitals to the definition of rural hospitals. In compliance with Act 1074, the Bureau has determined that it is necessary to amend the March 20, 2000 Rule to revise the disproportionate share qualification criteria for small rural hospitals.

Qualification for disproportionate share is based on the hospital's latest year end cost report for the year ended during the specified period of the previous year. Payment is equal to each qualifying hospital's pro rata share of the uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the specified period of the preceding year multiplied by the amount set for each pool. The specified cost reporting period for all hospitals except small rural hospitals is July 1 through June 30 of the previous year. The specified cost reporting period for small rural hospitals is April 1 through March 31 of the previous year. As a result of Medicare amending its reimbursement methodology for hospitals and granting extensions on the submission dates for hospital cost reports, the Bureau proposes to amend the provisions governing cost reporting periods for qualification and calculation of payments for disproportionate share. This action is being taken to avoid the imposition of sanctions or penalties by the Centers for Medicare and Medicaid Services (CMS). It is estimated that implementation of this proposed emergency rule will be cost neutral.

Emergency Rule

Effective for dates of service on or after August 8, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the disproportionate share payment methodologies for hospitals by incorporating the following revisions.

I. General Provisions

A. - C. ...

D. DSH payments to a hospital determined under any of the methodologies below shall not exceed the hospital's net uncompensated cost as defined in Section I.G. for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. - I. ...

III. Reimbursement Methodologies

A. ...

B. Small Rural Hospitals

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

a) had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b) meets the qualifications of a sole community hospital under 42 C.F.R. §412.92(a); or

c) had no more than 60 hospital beds as of July 1, 1999, and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d) had no more than 60 hospital beds as of July 1, 1997, and is a publicly owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e) had no more than 60 hospital beds as of June 30, 2000, and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f) had no more than 60 beds as of July 1, 1997, and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g) was a hospital facility licensed by the Department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility has been in continuous operation since July 1, 1994, is currently operating under a license issued by the Department, and is located in a parish with a population, as measured by the 1990 census, of less than 50,000.

2. ...

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

4. ...

C. Large Public Non-State Hospitals

1. A large public non-state hospital is defined as any hospital owned by a parish, city or other local government agency or instrumentality; and not included in section III. A. or B. of the May 20, 1999 rule. A qualifying hospital may be a long term hospital.

2. Qualifying hospitals must meet the qualifying criteria contained in section II. E and either section II. A, B, or C of the May 20, 1999 rule. Qualifying hospitals must maintain a log documenting the hospital's provision of uninsured care as directed by the Department. Issuance of the disproportionate share payment is contingent on the public non-state hospital certifying public funds as representing expenditures eligible for FFP in compliance with Act 12 of the 2001 Regular Session of the Louisiana Legislature.

3. Disproportionate share payments to each qualifying public non state hospital are equal to that hospital's pro rata share of uncompensated costs for all

hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for this pool. Payment shall not exceed each qualifying hospital's actual uncompensated costs as defined in Section I.G of the May 20,1999 rule. If the cost reporting period is not a full period (12 months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

D. All Other Hospitals (private rural and urban hospitals, free-standing psychiatric hospitals exclusive of state hospitals, rehabilitation hospitals and long-term care hospitals)

1. - 2.c. ...

Implementation of this emergency rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

David W. Hood
Secretary

0109#062

DECLARATION OF EMERGENCY

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

Home and Community Based Services Waiver
Program
Mentally Retarded/Developmentally
Disabled Waiver Slots

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts 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. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.1 et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services adopted provisions governing the allocation of slots in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver in a rule published June 20, 1997 (*Louisiana Register*, Volume 23, Number 6). The June 20, 1997 rule was subsequently amended to include Hammond Developmental Center residents or their alternates in the allocation of waiver slots previously reserved for residents of the Pinecrest Developmental Center (*Louisiana Register*, Volume 24, Number 3). The March 20, 1998 rule was later amended to increase the waiver slots allocated for foster children in the custody of the Office of Community Services and residents of public developmental centers and private ICF-MR facilities (*Louisiana Register*, Volume 25, Number 9). The Bureau of Community Supports and Services now proposes

to amend the September 20, 1999 rule to update the methodology of slot allocation to better meet the needs of citizens with disabilities in the State of Louisiana. This action is being taken to avoid the imposition of sanctions or penalties by the Centers for Medicare and Medicaid Services. It is estimated that implementation of this proposed emergency rule will be cost neutral.

Emergency Rule

Effective October 1, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services amends the provisions contained in the September 20, 1999 rule governing the programmatic allocation of waiver slots for the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver as follows.

Programmatic Allocation of Slots for MR/DD Waiver

The Bureau of Community Supports and Services (BCSS) request for services registry, formerly the MR/DD waiver waiting list, shall be used to evaluate individuals for waiver eligibility. This request for services registry will be used to fill all waiver slots administered by the BCSS for persons with mental retardation or developmental disabilities. BCSS shall notify the next individual on the request for services registry, in writing, that a slot is available and that he/she is next in line to be evaluated for possible waiver slot assignment. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible, either financially or medically, that individual is notified in writing. The next person on the request for services registry is notified as stated above and the process continues until an eligible person accepts a waiver slot. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Before placing a person in an appropriate slot, the person must consent to the removal of their name from the request for services registry. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited as follows.

1. A minimum of 90 slots shall be available for allocation to foster children in the custody of the Office of Community Services (OCS), who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS is the guardian for children who have been placed in their custody by court order. OCS shall be responsible for assisting the individual in gathering the documents needed in the eligibility determination process, preparing the comprehensive plan of care, and submitting the plan of care document to Medicaid.

2. A minimum of 160 slots shall be available for residents of Pinecrest and Hammond Developmental Centers, or their alternates, who have chosen to be deinstitutionalized, who successfully complete the financial and medical certification eligibility process, and are certified for the waiver. In situations where alternates are used, an alternate shall be defined as a resident of an ICF/MR facility who choose to apply for waiver participation, is eligible for the waiver, and vacates a bed in the ICF/MR facility for an

individual being discharged from a publicly operated ICF/MR developmental center. A Pinecrest or Hammond Developmental Center resident must be given freedom of choice in selecting a private ICF-MR facility placement in the area of the residents choice in order to designate the resident being discharged from the ICF-MR facility as an alternate. The bed being vacated in the ICF/MR facility is reserved for placement of a resident of a publicly operated ICF/MR developmental center for 120 days.

3. Any slots vacated during the waiver year shall be available to residents leaving any publicly operated ICF/MR or their alternates. In situations where alternates are used, an alternate shall be defined as a resident of an ICF/MR facility who choose to apply for waiver participation, is eligible for the waiver, and vacates a bed in the ICF/MR facility for an individual being discharged from a publicly operated ICF/MR developmental center. The bed being vacated in the ICF/MR is reserved for placement of a resident of a publicly operated ICF/MR developmental center for 120 days.

4. For those individuals who do not completed the transition process and move from either a publicly operated developmental center or an ICF/MR facility during the 120 day reservation period, the waiver slot will be converted to a community slot for processing. Justification to exceed the 120 day reservation period may be granted by the BCSS as needed.

5. Ten waiver slots shall be used for qualifying persons with developmental disabilities who are clients of the Developmental Neuropsychiatric Program (DNP) administered by Southeast Louisiana State Hospital, for a pilot project between the BCSS, the Office for Citizens with Developmental Disabilities (OCDD), and the Office of Mental Health (OMH) in the development of coordinated wrap around services for individuals choosing to participate in the waiver and who meet the financial and medical eligibility requirements for the waiver.

6. Funded slots, not addressed above, shall be available for allocation to the next individual on the BCSS request for services registry who successfully completes the financial and medical certification eligibility process and are certified for the waiver.

The Bureau of Community Supports and Services has the responsibility to monitor the utilization of waiver slots. At the discretion of the BCSS, specifically allocated slots may be reallocated to better meet the needs of citizens with disabilities in the State of Louisiana.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, 446 North 12th Street, Baton Rouge, Louisiana 70802-4613. She is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0109#063

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Administration of Manufactured and Mobile Home
Settlement Fund (LAC 61:I.4313)

The Department of Revenue, Policy Services Division, is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953.B, in order to clarify LAC 61:I.4313 which established procedures for the administration of the Manufactured and Mobile Home Settlement Fund. This emergency rule is necessary to clarify the original intent of LAC 61:I.4313 that the payment of the judgment issued on February 5, 2001, in the matter of "Shirley M. Avants and Jim W. Miley v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana; and Elmer Litchfield, Sheriff of East Baton Rouge Parish," No. 434,575 (19th Judicial District Court) in the amount of \$5,167,194 plus interest from the date of judgment be paid only from the state portion of the funds currently held in escrow by the Office of Motor Vehicles.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered By the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4313. Administration of claims Against the Manufactured and Mobile Home Settlement Fund as Required by Act 1212 of the 2001 Regular Legislative Session

A. Payment of Avants Judgment

1. The Secretary of Revenue will direct the Office of Motor Vehicles to issue a payment for the judgment rendered on February 5, 2001, in the matter of "Shirley M. Avants and Jim W. Miley v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana; and Elmer Litchfield, Sheriff of East Baton Rouge Parish," No. 434,575 (19th Judicial District Court Mar. 12, 1997) in the amount of \$5,167,194 plus interest from the date of the judgment. This payment will be made out of the state funds currently held in escrow by the Office of Motor Vehicles pursuant to the October 22, 1999 order issued in the Avants lawsuit.

2. Those individuals specifically listed as plaintiffs in the Shirley M. Avants lawsuit referenced in §4313.A.1 are not eligible to file a claim against the state regarding the Manufactured and Mobile Homes Settlement Fund described in §4313.B.

B. Source of Funds in the Manufactured and Mobile Homes Settlement Fund. After the payment described in §4313.A is made and an order is issued releasing the remainder of the state funds from escrow, the State Treasurer will transfer all remaining state tax monies held in escrow to the Manufactured and Mobile Homes Settlement Fund, hereinafter referred to as "the Fund."

C. Administration of the Fund with Regard to the Stevens, Rossi, and Miley Suits

1. The Department of Revenue will obtain a list of all persons who were plaintiffs on or before July 1, 2001, in the following three suits:

a. Nancy C. Stevens and Edward Istre, Jr. v. Brett Crawford, Secretary, Department of Revenue, State of Louisiana, No. 466,122 (19th Judicial District Court Nov. 2, 1999);

b. Darla M. Rossi, et al v. Cynthia Bridges, Secretary, Department of Revenue, State of Louisiana, No. 478,526 (19th Judicial District Court Nov. 29, 2000); and

c. Jim W. Miley, Individually, and on behalf of all others similarly situated v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana, No. 4695 (La. Board of Tax Appeals Apr. 15, 1997).

2. Any plaintiff referred to in §4313.C.1 must provide his legal representative with documentation that identifies the transaction upon which his claim is based. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale. The plaintiff's representative must present this documentation to the Department of Revenue by December 31, 2001.

3. The information provided by the plaintiffs in §4313.C.2 will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions.

4. After the state tax monies held in escrow are transferred to the Fund, the Secretary of the Department of Revenue will authorize payment from the Fund for the state sales or use tax paid to those plaintiffs described in §4313.C.1.a - c, but only in instances where the amount of state sales or use tax paid has been verified.

5. If it cannot be determined that a plaintiff described in §4313.C.1.a - c has paid state sales or use tax on the purchase of a manufactured or mobile home, or if the amount cannot be verified, the amount claimed by that plaintiff will be denied.

6. Plaintiffs in the suits listed in §4313.C.1.a - c are not eligible to file a claim against the state regarding the Manufactured and Mobile Home Settlement Fund.

D. Administration of the Manufactured and Mobile Home Fund with Respect to All Others

1. The Secretary of the Department of Revenue will obtain from the Department of Public Safety, Office of Motor Vehicles, a list of all persons who purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001.

2. The Department of Revenue will mail a notice to each person described in §4313.D.1. The notice will inform persons who are not a party to the lawsuits referenced in §4313.A.1 or §4313.C.1.a - c of their right to file a claim against the state for state sales or use tax paid on manufactured and mobile home purchases and will include a Manufactured and Mobile Homes Settlement Claim Form that must be filed with the claim against the state. The Manufactured and Mobile Homes Settlement Claim Forms will also be available at the Louisiana Board of Tax Appeals, at any office of the Department of Revenue, and on the Department of Revenue's website at www.rev.state.la.us.

3. The Department of Revenue will collect the Manufactured and Mobile Homes Settlement Claim Forms on behalf of the Board of Tax Appeals. Taxpayers who

purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001, must return the completed claim form to the Department of Revenue on or before December 31, 2001. The forms may be delivered to any Department of Revenue office or mailed to the Louisiana Department of Revenue, Manufactured and Mobile Homes Settlement Claims, P.O. Box 15409, Baton Rouge, Louisiana 70895-5409. Forms that are postmarked on or before December 31, 2001, will be deemed received by December 31, 2001.

4. Claimants must include documentation that identifies the transaction upon which their claim is based with the Manufactured and Mobile Homes Settlement Claim Form. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale.

5. The information provided by the claimants in §4313.D.4 will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions

6. If a claim is filed with incomplete documentation to identify the transaction, the secretary will notify the claimant that the claim is unacceptable. The secretary may allow additional time for the claimant to provide adequate documentation. However, all documentation must be provided no later than February 28, 2002, or the claim will be denied.

7. After the December 31, 2001 deadline to file a Manufactured and Mobile Homes Settlement Claim Form has passed, the Department of Revenue will review the forms in conjunction with the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid by each claimant. Thereafter, the Department will forward the claim forms along with its findings to the Board of Tax Appeals for a ruling.

8. After the Board of Tax Appeals rules on all claims, the Secretary of the Department of Revenue will authorize payment from the Fund of all claims approved by the Board of Tax Appeals in accordance with Paragraphs B and C of Section 4 of Act 1212 of the 2001 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in Accordance with Acts 2001, No. 1212 and R.S. 47:301 (West 2001).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:

Raymond E. Tangney
Senior Policy Consultant

0109#036

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

FIND Work Program Support Services
(LAC 67:III.2913)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to amend §2913 in the Family Independence Work Program effective October 1, 2001. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the agency, in order to further the goals and intentions of the federal Temporary Assistance to Needy Families Block Grant to promote job preparation and to better facilitate entry into the workplace, will increase the amount allowed for transportation services from \$60 to \$120 per month for participants who become ineligible for cash assistance due to earned income. Authorization for emergency action in this matter is also contained in Act 12.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 5. Family Independence Work Program (FIND Work)

Chapter 29. Organization

Subchapter C. Activities and Services

§2913. Support Services

A.1. - 2.a. ...

b. Participants who become ineligible for cash assistance due to earned income are eligible for a transportation payment of \$120 per month beginning with the first month of FITAP ineligibility and continuing through the twelfth month of ineligibility or through the last month of employment, whichever comes first.

3.a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), LR 24:356 (February 1998), LR 24:1135 (June 1998), LR 25:526 (March 1999), LR 25:2456 (December 1999), LR 26:1343 (June 2000), LR 27:

J. Renea Austin-Duffin
Secretary

0109#021

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

FITAP, KCSP, and TANF Initiatives
(LAC 67:III.1290, 5390, and 5503)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, to adopt the following changes in the Family Independence Temporary Assistance Program (FITAP) and the Kinship Care Subsidy Program (KCSP) effective August 20, 2001. Relative to these changes, an emergency provision is also established as a Temporary Assistance to Needy Families (TANF) Initiative. This rule shall remain in effect for a period of 120 days.

Whereas energy costs have increased drastically and utility companies provide electricity and gas for heating and cooling as well as the fuel for cooking and sanitation purposes, and whereas the ability to receive the aforementioned services contributes significantly to the health and well-being of children and families, an emergency situation does exist for many households dependent on state financial assistance since these households could be threatened with the loss of utility services due to their inability to pay increased energy costs.

Therefore, in order to offset the rising costs of home energy which may be excessive in relation to the income of FITAP and KCSP households, the agency shall provide energy assistance to these households in August 2001. Funds for this assistance are currently available through the federal TANF Block Grant to Louisiana.

Emergency energy assistance is also provided for as a TANF Initiative. Authority for emergency rulemaking is contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§1290. Energy Assistance

A. Based on the availability of funding and a determination of need by OFS, all households receiving a FITAP grant shall also be eligible to receive an energy assistance grant effective August 20, 2001, to apply towards the cost of utility service. OFS will establish a specific date of eligibility in order to determine when households will receive a grant, and only those households certified as of that date will be eligible for energy assistance.

B. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

Subpart 13. Kinship Care Subsidy Program (KCSP) Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§5390. Energy Assistance

A. Based on the availability of funding and a determination of need by OFS, all households receiving a KCSP grant shall also be eligible to receive an energy assistance grant effective August 2001 to apply towards the cost of utility service. OFS will establish a specific date of eligibility in order to determine when households will receive a grant, and only those households certified as of that date will be eligible for energy assistance.

B. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5503. Emergency Energy Assistance

A. Effective August 2001, in the event of a presidentially-declared energy emergency and based on the availability of funding and a determination of need by OFS, needy families shall receive a grant to apply toward the cost of utility service.

B. Services meet the TANF goal of providing assistance to needy families so that children may be properly cared for in their own homes or in the homes of relatives by providing funds to help pay the costs of cooling and heating the homes.

C. A needy family is defined as a family in which any member receives Family Independence Temporary Assistance Program (FITAP) or Kinship Care Subsidy Program (KCSP) grant, food stamp benefits, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch.

D. Services are considered by the agency as non-assistance.

E. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity and eligibility as defined for a "needy family" as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

J. Renea Austin-Duffin
Secretary

0109#010

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives (LAC 67:III.5507-5531)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to adopt Sections 5507 through 5531, effective August 30, 2001. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the Office of Family Support will provide funding to various departments of the state of Louisiana and other entities for a variety of programs intended to further the goals and intentions of the federal Temporary Assistance to Needy Families Block Grant. The authorization for emergency action in this matter is also contained in Act 12.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5507. Adult Education, Basic Skills Training, and Retention Services

A. The Office of Family Support will enter into a Memorandum of Understanding with the Workforce Commission to provide adult education, basic skills training, jobs skills training, and retention services to post-FITAP recipients and/or the working poor.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing education, training, and employment-related services to low income families in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI) or Free or Reduced School Lunch. Families who lose eligibility for FITAP because of earned income are considered needy for a period of one year following the loss of cash assistance. Only the parent is eligible to participate within the needy family.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5509. Domestic Violence

A. The Office of Family Support will enter into a Memorandum of Understanding with the Office of Women's Services to provide for services pertaining to domestic violence including rural outreach, services to children in shelters, and training of law enforcement and DSS personnel.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Services are limited to children and/or their parents or caretaker relatives who are victims of domestic violence.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5511. Micro-Enterprise Development

A. The Office of Family Support will enter into a Memorandum of Understanding with the Office of Women's Services to provide assistance to low-income families who wish to start their own businesses.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Insurance (SSI) or Free or Reduced School Lunch. Only the parent within the needy family is eligible to participate.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5513. Project Return

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund transitional services to former offenders.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by reducing the rate of recidivism. This goal will be accomplished by providing nonmedical substance abuse treatment and counseling, GED and academic enhancement, training in conflict resolution and communication skills, job training, and job placement assistance.

C. Eligibility for services is limited to parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5515. Job Skills Education Program

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund services to enhance basic academic skills of state adult inmates through the Job Skills and Education Program, a computer-based instructional system.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by promoting responsible parenthood. This goal will be accomplished by increasing the inmate's wage-earning capacity, improving decision-making skills and ability to cope with change.

C. Eligibility for services is limited to parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5517. Project Metamorphosis

A. OFS will enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5519. Concordia Parish Correctional Facility Life Skills Pre-Release Program

A. OFS will enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide Concordia Parish Correctional Facility inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5521. Prevention and Treatment Program for Women and Children

A. OFS will enter into a Memorandum of Understanding with the Office of Addictive Disorders for a substance abuse prevention and nonmedical treatment program for women with children.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage by providing needy families with drug abuse treatment so they may become self-sufficient.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI) or Free or Reduced School Lunch.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5523. Pre-Kindergarten Services

A. OFS will enter into a Memorandum of Understanding with the Department of Education to provide early childhood education to four-year-olds.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by giving parents of these children an opportunity earlier in the children's lives to become active partners in their education and increase their own literacy level by participating with their children in school programs.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5525. Pre-GED/Skills Option Program

A. OFS will enter into a Memorandum of Understanding with the Department of Education for adult education, pre-GED, skills options, and other dropout prevention programs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5527. Program Evaluation

A. OFS will enter into a Memorandum of Understanding with the Division of Administration to evaluate the Temporary Assistance to Needy Families (TANF) initiatives.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5529. Youth in Transition

A. OFS will enter into a Memorandum of Understanding with the Office of Community Services to provide services to youth who are ageing out of Foster Care.

B. These services meet the TANF goals to encourage the formation and maintenance of two-parent families and to prevent and reduce out-of-wedlock births.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5531. After-School Tutorial

A. OFS will enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

J. Renea Austin-Duffin
Secretary

0109#020

DECLARATION OF EMERGENCY

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

TANF Initiatives CNon-Public Schools
Early Childhood Development Program
(LAC 67:III.5505)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to amend LAC 67:III and establish a new Subpart specific to the adoption of agency-funded programs known collectively as "the TANF Initiatives." This involves a number of measures included in Act 12 of the 2001 Regular Session of the Louisiana Legislature whereby the agency will enter into agreements with other agencies and entities to fund a wide range of programs to further the goals of the federal Temporary

Assistance for Needy Families (TANF) Block Grant to Louisiana.

This emergency rule is effective August 20, 2001, and will remain in effect for a period of 120 days.

This rule concerns the Non-public Schools Early Childhood Development Program. Authorization for emergency action in this matter is contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5505. Non-Public Schools Early Childhood Development Program

A. OFS will enter into a Memorandum of Understanding with the Governor's Office, Office of Community Programs, to provide early childhood education to certain four-year-olds in non-public schools.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, an increase in literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for public school kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

J. Renea Austin-Duffin
Secretary

0109#011

DECLARATION OF EMERGENCY

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

2001-2002 Fur Trapping Season

In accordance with the provisions of R.S. 56:259(A) which authorizes the Wildlife and Fisheries Commission to set the open season for the taking of non-game quadrupeds and allows the Commission to extend, curtail or prohibit trapping in any area of the state each year and in accordance with emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency provisions to set seasons, the Wildlife and Fisheries Commission does hereby set the 2001-2002 fur harvest season, statewide from November 20, 2001 through March 31, 2002. The Wildlife and Fisheries Commission

does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to extend or shorten the adopted season.

Dr. H. Jerry Stone
Chairman

0109#042

DECLARATION OF EMERGENCY

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

2001-2002 Water Fowl Season

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

The hunting season for ducks, coots and geese during the 2001-2002 hunting season shall be as follows.

Ducks and Coots:

West Zone: November 10 - December 2
December 15 January 20
East Zone: November 17 - December 2
(Including Catahoula Lake) December 8 - January 20

Youth Waterfowl Weekend

November 3-4 in West Zone, November 10-11 in East Zone

Canvasback Season Dates

January 1-20 Statewide

(Note: Canvasback can be taken during the youth hunts.)

Daily Bag Limits

The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 2 wood ducks, 1 pintail, 1 canvasback (during the last 20 days of the duck season and during youth hunts), 3 scaup, and 2 redhead. Daily bag limit on coots is 15.

Mergansers

The daily bag limit for mergansers is 5, only 1 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit

The possession limit on ducks, coots and mergansers is twice the daily bag limit.

Geese: Light Geese (Snow, Blue And Ross=) and White-Fronted Geese

West Zone: November 3 - December 2
December 15 - February 8
East Zone: October 27 - December 2
December 8 - January 25

Daily bag limit on light geese (snow, blue and Ross=): 20
Possession limit on light geese (snow, blue and Ross=): None
Daily Limit on white-fronted geese: 2
Possession Limit on white-fronted geese: 4

Canada Geese

Closed in the Area Described Below

January 15 - January 23

Daily Limit on Canada geese: 1
Possession limit on Canada geese: 2

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows:

Beginning at the Texas State Line, proceeding east along Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any license vendor.

Conservation Order for Light Geese (Snow, Blue And Ross=)

West Zone: December 3 - December 14
February 9 - March 10
East Zone: December 3 - December 7
January 26 - March 10

Only snow, blue and Ross= geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begin one-half hour before sunrise and extend until one-half hour after sunset.

Rails

November 10 - January 2

King And Clapper

Daily bag limit 15 in the aggregate, Possession 30.

Sora And Virginia

Daily bag and possession 25 in the aggregate.

Gallinules

November 10 - January 2
Daily bag limit 15, Possession limit 30

Snipe

November 3 - December 3
December 15 - February 28
Daily bag limit 8, Possession limit 16

Shooting Hours

One-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for

all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective October 27, 2001, and extend through sunset on March 10, 2002.

Dr. H. Jerry Stone
Chairman

0109#041

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Large Coastal Shark Season Closure

In accordance with the emergency provisions of R.S. 49:953.B, the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its rule LAC 76:VII.357.M.2 which allows the Secretary to declare a closed season when he is informed that the commercial large coastal shark seasonal quota for that species group and fishery has been met in the Gulf of Mexico, and that such closure order shall close the season until the date projected for the reopening of that fishery in the adjacent Federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 11:30 p.m., August 31, 2001, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2 (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, bignose shark, blacktip shark, bull shark, Caribbean reef shark, dusky shark, Galapagos shark, lemon shark, narrowtooth shark, night shark, sandbar shark, silky shark, spinner shark and tiger shark) will close through December 31, 2001. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale by a commercial dealer of fish legally taken prior to the closure providing that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The Secretary has been notified by the National Marine Fisheries Service that the second semiannual subquota for large coastal sharks will be reached on or before August 31,

2001, and that the Federal season closure is necessary to comply with a court order.

James H. Jenkins, Jr.
Secretary

0109#022

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Large Coastal Shark Season Closure Modification

In accordance with the emergency provisions of R.S. 49:953.B, the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its rule LAC 76:VII.357.M.2 which allows the Secretary to modify any such closure in order to maintain consistency with season dates in the adjacent Federal waters, should the Federal closure dates be modified, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 11:30 p.m., August 31, 2001, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2, (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, bignose shark, blacktip shark, bull shark, Caribbean reef shark, dusky shark, Galapagos shark, lemon shark, narrowtooth shark, night shark, sandbar shark, silky shark, spinner shark and tiger shark) will open and remain open through 11:30 p.m., September 4, 2001, wherein it shall be closed. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale by a commercial dealer of fish legally taken prior to the closure providing that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The Secretary received notice from the National Marine Fisheries Service on August 30, 2001, that the second semiannual subquota for large coastal sharks has not been reached and that the Federal season modification is necessary to ensure adequate opportunity for eligible fishery participants to harvest the available quota.

James H. Jenkins, Jr.
Secretary

0109#026

Rules

RULE

Department of Economic Development Office of Financial Institutions

Non-Depository Records Retention (LAC 10:XI.501 and XVII.701)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3573.9, 9:3574.10, 9:3576.4, 9:3578.8, and 37:1807, the commissioner of the Office of Financial Institutions repeals LAC10:XI.501, the Rules promulgated in the *Louisiana Register*, Volume 17, page 588 (June 1991), and Volume 18, page 26, (January 1992), regarding records retention schedules, and adopts a Rule providing for a record retention schedule for all non-depository persons subject to the supervision of the commissioner. This Rule significantly streamlines the existing record retention Rule by requiring that applicable institutions maintain minimum records and retention periods as deemed necessary by the commissioner for the proper examination and supervision of the person by this office and clarifies that the rule applies to all non-depository persons supervised by the commissioner.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XVII. Miscellaneous Provisions

Chapter 7. Records Retention

§701. Non-Depository Records Retention

A. Each non-depository person subject to the supervision of the Office of Financial Institutions shall retain such minimum records which are deemed necessary for the examination and supervision of such persons by this office and for such minimum retention periods as determined by the commissioner and set forth in a "record retention schedule" to be detailed in policy which may be amended from time to time as necessary. This rule does not replace the person's responsibility to create, implement, and maintain its own comprehensive record retention program, consistent with the person's strategic goals and objectives. Such records may be retained in various forms as approved by the commissioner, including but not limited to, hard copies, photocopies, computer printouts or microfilm, microfiche, imaging, or other types of electronic media storage that can be readily accessed and reproduced into hard copies.

For purposes of this rule, non-depository persons refers to any individual, corporation, limited liability company, partnership or other entity other than those considered by the commissioner to be depository institutions, such as banks, savings associations, credit unions and savings banks, and including, but not being limited to, residential mortgage lenders, collection agencies, sellers of checks, bond for deed escrow agents, check cashers, licensed lenders, loan brokers, credit repair services organizations, and pawnbrokers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3573.9, 9:3574.10, 9:3576.4, 9:3578.8, and 37:1807.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:0000 (September 2001).

Part XI. Consumer Credit

Chapter 5. Records Retention

§501. Licensed Lenders Records Retention Schedule

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:588 (June 1991) amended LR 18:76 (January 1992), repealed LR 27:0000 (September 2001).

Doris B. Gunn
Deputy Commissioner

0109#034

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Corrective Actions (LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's accountability system is an evolving system with different components. The change more clearly explains and refines existing policy as follows requirements of Corrective Actions schools and the roles/responsibilities of Distinguished Educators (DEs) and District Assistance Teams (DATs).

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April 2000); LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:0000 (September 2001).

**The Louisiana School and District Accountability
SystemC Corrective Actions**

2.006.09 A school that has a SPS of 30 or less or has a SPS of less than 100 and fails to reach its Growth Target shall enter into Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student

achievement at the school. There shall be three levels of Corrective Actions.

All schools in Corrective Actions I shall provide pertinent information to the Louisiana Department of Education concerning steps they have taken to improve student performance in order to document activities related to Corrective Actions I and in light of recent proposed changes in federal programs. The information shall be required on an annual and/or quarterly basis.

Requirements for Schools in Corrective Actions I

1) A Revised or New School Improvement Plan

All Louisiana schools were required to have a School Improvement Plan in place by May of 1998. Those schools falling within the category of Academically Unacceptable and placed in Corrective Actions I shall be required to review and either revise or completely rewrite their plan, with the assistance of a District Assistance Team, and submit it to the Division of School Standards, Accountability, and Assistance. The plan shall contain the following essential research-based components:

A. A statement of the school's beliefs, vision, and mission;

B. A comprehensive needs assessment which shall include the following quantitative and qualitative data:

C Student academic performances on standardized achievement tests (both CRT and NRT) and performance/authentic assessment disaggregated by grade vs. content vs. exceptionality);

C Demographic indicators of the community and school to include socioeconomic factors.

C School human and material resource summary, to include teacher demographic indicators and capital outlay factors;

C Interviews with stakeholders: principals, teachers, students, parents;

C Student and teacher focus groups;

C Questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research;

C Classroom Observations;

C. Measurable objectives and benchmarks;

D. Effective research-based methods and strategies;

E. Parental and community involvement activities;

F. Professional development component aligned with assessed needs;

G. External technical support and assistance;

H. Evaluation strategies;

I. Coordination of resources and analysis of school budget (possible redirection of funds);

J. Action plan with time lines and specific activities.

2) Assurance pages

Each school in Corrective Actions I shall be required to provide assurances that it worked with a District Assistance Team to develop its School Improvement Plan, and that the plan has the essential components listed above. Signatures of the team members shall also be required.

3) A quarterly Monitoring of the Implementation of the School Improvement Plan

District Assistance Teams shall assist schools in Corrective Actions I in monitoring the implementation of their School Improvement Plan. All schools in Corrective Actions I shall be required to submit to the Louisiana Department of Education a quarterly report on the implementation of their school improvement plan in paper and/or electronic format.

4) An Annual Evaluation of the Level of Implementation of the School Improvement Plan

This evaluation shall be required on an annual basis. The Louisiana Department of Education shall make every effort to see that the information is collected in a manner that shall be of assistance to the schools and that shall provide feedback to them as they strive to improve student achievement.

Corrective Actions Level II: All schools in Corrective Actions II must adhere to the requirements of schools in Corrective Actions I; however, Corrective Actions II schools must submit to the Louisiana Department of Education a *Monthly Monitoring of the Implementation of the School Improvement Plan*.

A highly trained Distinguished Educator (DE) shall be assigned to a school by the state. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. If a school is labeled as Academically Unacceptable, parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy Standard #2.006.11).

Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy, Standard #2.006.11). A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to SBESE for approval.

If a Corrective Actions Level III school has achieved at least 40% of its Growth Target or 5 points, whichever is greater, during its first year, then that school may proceed to a second year in Level III. If such minimum growth is not achieved during the first year of Level III, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose state approval and all state funds.

Any reconstituted Schools SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. SBESE shall monitor the implementation of the Reconstitution Plan.

A school initially enters Corrective Actions Level I if it has an SPS of 30 or less or if it has an SPS of less than 100 and fails to reach its Growth Target.

A school moves into a more intensive level of Corrective Actions when adequate growth is not demonstrated during each 2-year cycle.

A school with an SPS of 30 or less, i.e., Academically Unacceptable School, shall move to the next level of Corrective Actions as long its score is 30 or less.

A school with an SPS of 30.1 to 50.0 shall move to the next level of Corrective Actions if it grows fewer than 5 points. If it grows 5 points or more each cycle, but less than its Growth Target, a school may remain in Corrective Actions Level I for two cycles and Corrective Actions Level II for one cycle.

A school with an SPS of 50.1 to 99.9 shall remain in Corrective Actions Level I as long as its growth is at least its Growth Target minus 5 points, but not less than 0.1 points. During the first 10-year cycle, there is no maximum number of cycles that such a school can stay in Level I as long as this minimum growth is shown each cycle.

A school exits Corrective Actions if its School Performance Score is above 30 and the school achieves its Growth Target.

Corrective Actions Summary Chart

School Level Tasks

Level I

- 1) Utilize state diagnostic process to identify needs; and
- 2) Develop/implement a consolidated improvement plan, including an integrated budget; process must include: a) opportunities for significant parent and community involvement, b) public hearings, and c) at least two-thirds teacher approval.

Level II

- 1) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 2) Distinguished Educator works with principals to develop capacity for change.

Level III

- 1) Distinguished Educator continues to assist with improvement efforts and work with the advisory District Assistance Team and other district personnel to design that schools Reconstitution Plan or No State Approval/No Funding;
- 2) If Reconstitution Plan is approved by SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets; and
- 3) If Reconstitution Plan is not approved, no state approval/no state funding.

District Level Tasks

Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Publicly identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) As allowed by law, reassign or remove school personnel as necessary; and
- 4) For Academically Unacceptable schools, ensure schools receive at least their proportional share of applicable state, local, and federal funding.

Level II

- 1) District Assistance Teams continue to help schools;
- 2) Hold public hearing and respond to Distinguished Educators= written recommendations;
- 3) Local boards make a written response to SBESE no later than 45 days subsequent to receiving the Distinguished Educator's report. Failure to respond to these recommendations will result in the school receiving unapproved status and being ineligible to receive federal subgrantee assistance funds until such response is received;
- 4) As allowed by law, local boards reassign or remove personnel as necessary; and
- 5) For Academically Unacceptable Schools, authorize parents to send their children to other public schools.

Level III

- 1) District Assistance Teams shall continue to help schools;
- 2) Authorize parents to send their children to other public schools;
- 3) Design Reconstitution Plan; and
- 4) At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40% of the Growth Target or 5 points, whichever is greater; b) District shall develop Reconstitution Plan to be approved by SBESE; and c) SBESE grants non-school approval status.

Reconstitution or No State Approval/Funding

- 1) If Reconstitution Plan is approved by SBESE, provide implementation support.
- 2) If the Reconstitution Plan is not approved, no state approval/no state funding.

<p style="text-align: center;">State Level Tasks</p> <p>Level I</p> <ol style="list-style-type: none"> 1) Provide diagnostic process for schools; 2) Provide training for District Assistance Teams; 3) For some Academically Unacceptable Schools only, SBESE assigns advisory Distinguished Educators to schools; and 4) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans. <p>Level II</p> <ol style="list-style-type: none"> 1) Assign advisory Distinguished Educator to schools; and 2) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans. <p>Level III</p> <ol style="list-style-type: none"> 1) Assign advisory Distinguished Educator to schools for one additional year to assist in the development and design of the Reconstitution Plan; 2) At end of Year 1, SBESE approves or disapproves Reconstitution Plans. If SBESE approves the Reconstitution Plan, the Distinguished Educator is assigned an additional year to support and assist with monitoring the implementation of the Reconstitution Plan for schools that fail to make adequate growth; 3) If a school achieves the required amount of growth during its first year in Level III Corrective Action and proceeds to a second year in Level III, the Distinguished Educator will be assigned to the school for that additional year to support and assist The school in its continued improvement efforts; and 4) Work to secure new funding and/or redirect existing resources to help schools Implement their improvement plans. <p>Reconstitution or No State Approval/No Funding</p> <ol style="list-style-type: none"> 1) If Reconstitution Plan is approved by SBESE, a) monitor implementation of Reconstitution plan; and b) provide additional state improvement funds; and 2) If Reconstitution Plan is not approved, no state approval/state funding.

Weegie Peabody
Executive Director

0109#008

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelCPractitioner Teacher Licensure Policy (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903. This Practitioner Teacher policy provides for a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrate required content knowledge, instructional expertise, and classroom management skills. Practitioner teachers who complete the required course requirements (or equivalent contact hours) and demonstrate proficiency during their first year of teaching can obtain a Level C Professional License after successfully completing all requirements of the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS). A practitioner teacher's teaching experience, while holding a Practitioner Teacher

license, will count toward the three years of teaching experience requirement that is needed to move from a Type C certificate to a Type B certificate.

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations**

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635 (April 2000); LR 26:638 (April 2000), LR 27:0000 (September 2001).

Bulletin 746C Louisiana Standards for State Certification of School

PersonnelCPractitioner Teacher Licensure Policy

A Practitioner Teacher license, renewable on a yearly basis for a maximum of three years, will be granted to those candidates who meet all entrance requirements for a Practitioner Teacher Program, who are accepted into and enrolled in an approved Practitioner Teacher Program, and who have a teaching assignment in a state-approved Louisiana school in the area of certification being studied. Issuance of Practitioner Teacher licenses will require verification from the program provider and the employing system/school.

Minimum admission requirements for the Practitioner Teacher Program stipulate that the candidate hold an undergraduate degree from a regionally accredited university, possess the required 2.5 GPA, and pass the Pre-Professional Skills Test and Content Specialty Exam of the PRAXIS.

Candidates in the Practitioner Teacher Program will complete an intensive summer training experience prior to assuming a full-time teaching position in a Louisiana classroom. To allow for the summer training experience, employing systems/schools may offer contracts to Practitioner Teacher candidates as early as the spring preceding the school year in which the practitioner will assume a full-time position. It is a responsibility of the employing system/school, working in close collaboration with the program provider, to facilitate and coordinate the placement of practitioner teachers in state-approved schools in teaching areas in which there is an identified need. Practitioner teachers are issued a one-year Practitioner Teacher license, renewable on a yearly basis for a maximum of three years. The participant signs a one-year renewable contract with the school system and/or approved school. The practitioner teacher would be placed, at a minimum, on the same salary schedule as a regularly certified, salaried teacher.

If a candidate withdraws or is dropped from the Practitioner Teacher Program, the Practitioner Teacher license is no longer valid. A practitioner teacher must remain enrolled in the Practitioner Teacher Program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. All program requirements must be completed within the three-year period of the license.

A practitioner teacher may complete all requirements of the practitioner program in less than three years. Once a practitioner teacher completes all requirements of the Practitioner Teacher Program and is recommended by the program provider, he may apply for a Type C Teaching Certificate.

A practitioner teacher's teaching experience, while holding a Practitioner Teacher license, will count toward the three years of teaching experience requirement that is needed to move from a Type C certificate to a Type B certificate.

* * *

Weegie Peabody
Executive Director

0109#009

RULE

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil Progression
Adoption Procedures (LAC 28:XXXIX.305)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education has amended Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:XXXIX. Because of recent changes in the High Stakes Testing Policy, school systems have been unable to keep their Pupil Progression Plans up to date. The new revisions will give the local school

systems flexibility in revising their plans when the revisions are mandated by the SBESE.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566C Guidelines

for Pupil Progression

§305. Adoption Procedures

A. Initial Adoption by the Local School Board

1. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meeting Law [R.S. 42:4:2(A)(2); Attorney General's Opinion Number 79-1045].

2. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan has been adopted and approved, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

3. The statements defining the committee-selection process and the Pupil Progression Plan are public documents that must be handled within the guidelines of the Public Records Act (R.S. 44:1-42).

B. Locally Initiated Interim Revisions

1. School systems/school boards will comply with the same procedure as for initial adoption by the local school board.

C. State Mandated Interim Revisions

1. School systems will be notified of any policy change that will affect their currently approved Pupil Progression Plan within 15 working days after the Notice of Intent is passed by the State Board of Elementary and Secondary Education.

2. School systems/school boards shall develop a procedure for informing the public of the proposed policy change.

3. After final adoption as a rule by SBESE, school boards shall adopt and incorporate the state mandated policy changes into their current Pupil Progression Plan within 30 working days after notification of said changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:0000 (September 2001).

§307. Submission Process

A. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance. Documentation of input in the plans development by educators and parents as well as public notice prior to local board approval and locally initiated revisions (including dates and locations) must be submitted.

1. Interim Revisions: Locally Initiated and State-Mandated

a. Resubmission of two copies of the local board approved pages is made to the Department of Education.

b. Signatures of the local school board president and superintendent are required.

c. The revisions are incorporated into the Pupil Progression Plan at both the local and state level.

B.1. - 4. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:0000 (September 2001).

Weegie Peabody
Executive Director

0109#007

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Small Quantity Generator Revisions
(LAC 33:V.3801)(HW075F)

(Editor's Note: The following section of HW075F, which was published as a Rule on pages 706-715 of the May 20, 2001 *Louisiana Register*, is being republished to correct a reference.)

**Chapter 38. Universal Wastes
Subchapter A. General
§3801. Scope and Applicability**

A. This Chapter establishes requirements for managing batteries as described in LAC 33:V.3803, pesticides as described in LAC 33:V.3805, thermostats as described in LAC 33:V.3807, lamps as described in LAC 33:V. 3809, and antifreeze as described in LAC 33:V.3811. This Chapter provides an alternative set of management standards in lieu of regulations under LAC 33:V.Subpart 1.

* * *

[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 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1496 (August 1998), LR 24:1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001), repromulgated LR 27:0000 (September 2001).

James H. Brent, Ph.D.
Assistant Secretary

0109#044

RULE

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

GOEA Policy Manual Revision C Family Caregiver Support
(LAC 4:VII.1245)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) has amended the GOEA Policy Manual effective September 20, 2001 by establishing a new Section 1245 in Subchapter E, Uniform Service Requirements. Section 1245 provides guidance to the aging network for use in implementing the provisions of the National Family Caregiver Support Program under Title III,

Part E of the Older Americans Act, as amended in 2000 (P.L. 106-501).

**Title 4
ADMINISTRATION
Part VII. Governor's Office**

**Chapter 11. Elderly Affairs
Subchapter E. Uniform Service Requirements
§1245. Family Caregiver Support Program**

A. Purpose. The purpose of the Family Caregiver Support Program (hereafter referred to as "this program") is to provide multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers.

B. Definitions

Activities of Daily Living Cthe term "activities of daily living" includes eating, dressing, bathing, toileting, transferring in and out of bed/chair and walking.

Adult Day Care/Adult Day Health Cprovision of personal care for dependent adults in a supervised, protective, congregate setting during some portion of a 24-hour day. Services offered in conjunction with day care/adult day health typically include social and recreational activities, training, counseling, meals for adult day care and services such as rehabilitation, medications assistance and home health aide services for adult day health.

Case Management Cassistance either in the form of access or care coordination in circumstances where the older person and/or their caregivers are experiencing diminished functioning capacities, personal conditions or other characteristics which require the provision of services by formal service providers. Activities of case management include assessing needs, developing care plans, authorizing services, arranging services, coordinating the provision of services among providers, follow-up and reassessment, as required.

Child C an individual who is not more than 18 years of age.

Client Cfor purposes of this program, the term "client" refers to the caregiver.

Family Caregiver C an adult family member, or another individual, who provides uncompensated in-home and community care to an older individual who needs supportive services.

Grandparent or Older Individual who is a Relative Caregiver C a grandparent or stepgrandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and:

- a. lives with the child; and
- b. is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and
- c. has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

Group Respite C established social-model adult day service programs designed to provide a temporary break in the tasks of caregiving and offer information, education and other supportive services. They also attempt to improve patients' cognitive and social abilities by providing a secure environment and opportunities to socialize.

In-Home Respite C personal care provided in the home of the qualifying individual in order to provide a brief period of relief or rest for the client.

Individual Counseling—the term "individual counseling" refers to services of a state licensed professional designed to increase the client's capability to care for the qualifying individual. These services are meant to provide short term training or therapy to develop critical skills. Persons providing this service must be licensed in the specific area in which training or consultation is being provided. The areas covered include, but shall not be limited to the following: social work, psychology, professional counseling, nursing, food and nutrition, occupational therapy, physical therapy, and speech pathology and audiology.

Information and Assistance—a service for older individuals that:

- a. provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;
- b. assesses the problems and capacities of the individuals;
- c. links the individuals to the opportunities and services that are available; and
- d. to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate follow-up procedures.

Institutional Respite—temporary, alternative living arrangements for older persons in a hospital, nursing home or other licensed facility on an intermittent, occasional or emergency basis.

Material Aid—issuing assistive devices and other goods (e.g., Walkers, wheelchairs, fans, commodities, personal hygiene items).

Mental Retardation and Related Developmental Disabilities—refers to:

- a. a diagnosis of mental retardation. Mental retardation refers to significantly sub-average general intellectual function existing concurrently with deficits in adaptive behavior and manifested prior to age 22; or
- b. a severe, chronic disability which is attributable to mental retardation, cerebral palsy, epilepsy or autism; or any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment of services similar to those required for these persons; the disability:
 - i. is manifested before the person reaches age 22;
 - ii. is likely to continue indefinitely;
 - iii. results in substantial functional limitations in three or more of the following areas of major life activity: self-care; understanding and use of language; learning; mobility; self-direction; capacity for independent living; economic self-sufficiency; and
 - iv. reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high

probability of resulting in developmental disabilities if services are not provided.

Older Individual—an individual who is 60 years of age or older.

Personal Care—a service that provides personal assistance, stand-by assistance, supervision or cues for persons with the inability to perform one or more of the following activities of daily living: eating, dressing, bathing, toileting, transferring in and out of bed/chair or walking. Generally, tasks are limited to those dealing with personal hygiene, meal preparation and eating, household services for the recipient and accompanying the recipient to and from medical appointments.

Qualifying Individual—the older individual or child receiving the care provided by the family caregiver or the grandparent or older individual who is a relative caregiver.

Sitter Service—a service provided in a home setting to ensure the health and safety of the qualifying individual. It includes observing, conversing, providing food for the qualifying individual, etc.

C. Support Services

1. Funds allocated under this program for services provided by an area agency on aging, or entity that such agency has contracted with, shall be expended in the categories listed below. All appropriate state licensing requirements must be met.

Assistance—services that involve individual one-on-one contact to assist caregivers in gaining access to the services (i.e., information and assistance or case management);

Counseling/Support Programs/Groups—provision of advice, guidance and instruction to caregivers in an individual or group setting to assist the caregivers in making decisions and solving problems relating to their caregiving roles (e.g., individual counseling, organization of support groups, or training);

Information—activities that involve a contact with several current or potential clients/caregivers with current information on opportunities and services available to the individuals within their communities services (e.g., public education).

Respite Care—temporary or periodic services for frail elderly or individuals with developmental disabilities including adult day care/adult day health, group respite, In-home respite and institutional respite. These services must be provided for periods of at least 4 hours and not more than 72 hours per visit and shall be limited to a maximum of 96 hours per calendar year per qualifying individual; and

Supplemental Services—personal care, sitter service or material aid to support the needs of caregivers.

2. The services provided under this program shall supplement, and not supplant, replace, or substitute for any services described in Paragraph 1 of this Subsection provided by GOEA or other State agency or unit of general purpose local government (including an area agency on aging) using Federal, State, or local funds on or before November 12, 2000, which was one day before the date of enactment of Title III-E.

3. Area agencies may use not more than 10 percent of the funds allocated under this program to provide the support services listed in Paragraph 1 of this Subsection to

grandparents and older individuals who are relative caregivers.

4. No more than 20 percent of the funds allocated under this program shall be dedicated to supplemental services. An area agency on aging, or entity that such agency has contracted with, may use other funds to provide additional supplemental services.

5. Of the funds not expended pursuant to paragraph 3 of this subsection, at least 40 percent shall be reserved for respite services.

6. Direct payment to family caregivers shall not be allowed in this program.

D. Participant Eligibility and Priority Requirements

1. Eligibility Criteria

a. Services shall be provided to:

i. family caregivers, as defined in Subsection B of this Section; and

ii. grandparents or older individuals who are relative caregivers, as defined in Subsection B of this Section.

b. Services specified in Subparagraphs d and e of §1245.C.1 of this manual, shall be provided to a family caregiver who is providing care to an older individual who is determined to be functionally impaired because the individual:

i. is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

ii. due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

2. An area agency on aging, or entity that such agency has contracted with, shall give priority for services to older individuals with greatest social and economic need, (with particular attention to low-income older individuals) and older individuals providing care and support to persons with mental retardation and related developmental disabilities.

3. No one shall be entitled to receive the maximum services allowed. Service plans shall be based upon individual client needs. Services shall be provided as permitted by available funding.

E. Participant Selection Criteria. Participants in this program shall be selected using guidelines established by the Office of Elderly Affairs.

F. Coordination with Service Providers. Each area agency on aging shall coordinate the activities of the agency, or entity that such agency has contracted with, with the activities of other community agencies and voluntary organizations providing the types of services described in §1245.C.

G. Accountability

1. The area agency shall collect data and maintain records relating to this program in the format specified by GOEA. The area agency shall furnish the records to the Office of Elderly Affairs in the prescribed time frame. These records will enable the Office of Elderly Affairs to monitor program administration and compliance, and to evaluate and compare the effectiveness of this program.

2. The area agency shall prepare and submit to GOEA reports on the data and records required under Paragraph 1, including information on the services funded under this program.

3. The area agency on aging, or entity that such agency has contracted with shall comply with standards established by the state agency to assure the quality of services provided with assistance made available under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as amended (P. L. 106-501); and 42 U.S.C. 6001.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 27:0000 (September 2001).

P.F. "Pete" Arceneaux, Jr.

Executive Director

0109#017

RULE

Department of Health and Hospitals

Office of Public Health

**Public Water System Capacity Development
(LAC 48:V.7707-7719)**

Under the authority of R.S. 40:4 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health (DHH/OPH) has amended the Public Water System Capacity Development Regulations, LAC 48:V. 7707-7719. These amendments provide certain exceptions to the existing provisions such that those provisions do encumber the ability of certain public agencies to expeditiously furnish financial aid to public water systems which qualify for such aid within the constraints required by these agencies, nor will they encumber the DHH/OPH in its implementation of the Capacity Development Strategy.

There are two public agencies, the USDA Rural Utilities Services (RUS) and the Louisiana Community Development Block Grant (LCDBG), which provide financial aid in the form of grants and loans to existing and new public water systems. These agencies have capacity requirements for systems requesting such grants or loans. These amendments preclude the necessity of those systems to submit a business plan (containing capacity requirements) to DHH/OPH for grants and loans from those agencies, since these systems must meet those agency capacity requirements.

This amendment further provides for more brevity and simplification in the business plan required of existing systems. Finally, there are certain clarifications and revisions regarding management training provisions in the Capacity Development Strategy.

For the reasons set forth, above, LAC 48:V.7707-7719 is amended as follows.

Title 48
PUBLIC HEALTH GENERAL
Part V. Preventive Health Services
Subpart XXV. Drinking Water
Chapter 77. Drinking Water Program
Subchapter B. Public Water System Capacity
Development

§7711. Definitions

A. The following terms used in these regulations shall have the following meanings

* * *

Public Water System—a system for the provision to the public of water for potable purposes, through pipes or other constructed conveyances, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days out of the year. The term includes:

a. any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and

b. any collection or pre-treatment storage facilities not under such control which are used primarily in connection with the system.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1767 (September 1998), amended LR 27:0000 (September 2001).

§7713. New Systems

A. Business Plan. All community and non-transient non-community public water systems wanting to commence operation after January 1, 1999 shall be required to submit a business plan to the department to aid in the department's determination of technical, managerial and financial capacity. Required information for the business plan shall be provided by the department. The Office of Public Health (OPH) will exempt from the requirement for submission of the business plan all new public water systems funded by either the United States Department of Agriculture's (USDA) Rural Utilities Service (RUS) and/or the Division of Administration's (DOA) Louisiana Community Development Block Grant (LCDBG) program, provided those public water systems are certified by RUS and/or LCDBG as meeting the respective agency's minimum capacity requirements. OPH staff will continue to review plans and specifications for all new public water systems.

B. ...

C. Management Training. As a part of meeting the managerial capacity requirements, all appropriate personnel, e.g., board members, council members, mayors, owners, etc., of new public water systems wanting to commence operation after January 1, 1999, shall attend the next scheduled training session provided by the state, its contractors or other state recognized trainers. Such arrangements shall be made upon making application to the department for approval to commence operation.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

E. Approval for Operation. After January 1, 1999, written approval to commence operation, i.e., issuance of the permit to construct and operate, for such new public water systems will be given by the department only after the department is satisfied that technical, managerial, and financial capacity requirements are being met, in addition to all other applicable regulations. The Office of Public Health (OPH) will issue the permit to construct and operate a new public water system funded by the RUS and/or the LCDBG program, provided those public water systems are certified by RUS and/or LCDBG as meeting the respective funding agency's minimum capacity requirements and the plans and specifications are reviewed and approved by OPH staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1768 (September 1998), amended LR 27:0000 (September 2001).

§7717. Existing Systems

A. Business Plan. All existing public water systems shall be required to submit a shortened and simplified business plan to the department to aid in the department's determination of technical, managerial, and financial capacity. Required information for the business plan will be provided by the department. The department and the concerned parties will revise the content of the business plan, as necessary, to adapt it to the needs of existing system capacity requirements. A grant or a loan from either RUS and/or LCDBG programs will not trigger the requirement for submission of the business plan. Prioritization for the required capacity assessment of existing systems, including submission of the business plan, will be based on whether the existing water system has been issued an administrative order, and/or is on the significant non-compliers list and/or has had primary (MCL) violations during the past three years. However, the Office of Public Health (OPH) will exempt from the requirement for submission of the business plan all existing public water systems actively seeking funding by the RUS programs, provided those public water systems are certified by RUS as meeting their minimum capacity requirements. Such plan must be submitted to the department within six months after the initial visit by the designated party of the state who is providing assistance to the public water system in preparation of the business plan.

B. ...

C. Management Training. As a part of meeting the managerial capacity requirements, all appropriate staff of existing public water systems shall attend a training session provided by the state, its contractors or other state recognized trainers for board members, council members/mayors/owners, etc. Management training for all board members/council members/mayors/owners of existing public water systems will be based on whether their water system has been issued an administrative order, and/or is on the significant non-compliers list and/or has had primary MCL violations during the past three years. The department will continue to encourage attendance on a voluntary basis at management training sessions by board members/council members/mayors/owners of other public water systems. Training sessions shall be provided periodically and appropriate parties as noted above will have the opportunity to attend one of the scheduled sessions within six months

after the system has been notified that is it being evaluated for technical, managerial, and financial capacity.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1768 (September 1998), amended LR 27:0000 (September 2001).

§7719. Miscellaneous

A. Evaluations. Evaluations to determine technical, managerial, and financial capacity will be conducted in accordance with a developed strategy prepared by the department in partnership with concerned parties and for which approval has been given by USEPA.

B. Coordination. Implementation of the strategy will be coordinated between the Department staff and contracting parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1769 (September 1998), amended LR 27:0000 (September 2001).

David W. Hood
Secretary

0109#061

RULE

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

Durable Medical Equipment
Reimbursement Increase
Ostomy Supplies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 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, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for ostomy supplies identified by specific Health Care Financing Administration Common Procedure Codes. The reimbursement is increased to 80 percent of the Medicare Fee Schedule, 80 percent of the manufacturer's suggested retail price (MSRP) or billed charges, whichever is the lesser amount, for the following HCPC codes:

- Ostomy Supplies
- A4360-A4421
- A5051-A5149
- K0137-K0139
- K0278-K0280
- K0421-K0437

If an item is not available at 80 percent of the Medicare Fee Schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which

the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

David W. Hood
Secretary

0109#070

RULE

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

Inpatient Hospital Services
Reimbursement
Methodology
Well Baby Care

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 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, Office of the Secretary, Bureau of Health Services Financing establishes a separate prospective per diem rate for well baby care rendered to infants who are discharged at the same time that the mother is discharged. The separate per diem rate for well baby care shall be available to private hospitals that perform more than 1500 Medicaid deliveries per year. The per diem rate for well baby care shall be the lesser of actual costs as documented on the last finalized cost report or the rate for a nursery boarder.

David W. Hood
Secretary

0109#071

RULE

**Department of Natural Resources
Office of Conservation
Pipeline Division**

Pipeline Safety
Hazardous Liquids
(LAC 33:V.Chapters 301 and 304)

In accordance with the Administrative Procedure Act, R.S. 49:950, and pursuant to the power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Statutes of 1950, Section 30:501 et seq., the Office of Conservation has amended the hazardous liquids regulations, LAC 33:V.Chapters 301 and 304.

This Rule is identical to federal regulations found in 49 CFR Part 195, which are applicable in Louisiana. For more information regarding this Rule, contact the Pipeline Safety Section at (225) 342-5585 or P. O. Box 94275, Baton Rouge, LA 70804-9275.

This rule package consists of amendments affecting minimum safety design and reporting requirements for hazardous liquids pipelines. Added language includes new requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 3. Natural Resources
Chapter 301. Transportation of Hazardous Liquids by Pipeline

Subchapter A. General

§30103. Applicability

A. - B.2. ...

3. transportation through the following low-stress pipelines:

a. an offshore pipeline or pipeline segment that:

i. does not transport HVL;

ii. is located in a rural area; and

iii. is located outside a waterway currently used

for commercial navigation;

b. a pipeline subject to safety regulations of the U.S. Coast Guard; or

c. a pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation;

B.4. - 5. ...

6. transportation of a hazardous liquid or carbon dioxide in Outer Continental Shelf pipelines which are located upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator;

B.7. - 8b. ...

C. Breakout tanks subject to this part must comply with requirements that apply specifically to breakout tanks and, to the extent applicable, with requirements that apply to pipeline systems and pipeline facilities. If a conflict exists between a requirement that applies to pipeline systems or pipeline facilities, the requirement that applies specifically to breakout tanks prevails. Anhydrous ammonia breakout tanks need not comply with §§30189.B, 30202.B, 30215.C, 30239.B and E, 30287.C and D, and 30291.B and C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (April 1994), LR 21:814 (August 1995), LR 27:0000 (September 2001).

§30105. Definitions

A. As used in this Chapter:

Abandoned Cpermanently removed from service.

* * *

Computation Pipeline Monitoring (CPM) Ca software-based monitoring tool that alerts the pipeline dispatcher of a possible pipeline operation anomaly that may be indicative of a commodity release.

* * *

Exposed Pipeline Ca pipeline where the top of the pipe is above the seabed in water less than 15 feet (4.6 meters), as measured from the mean low water.

* * *

Gulf of Mexico and Its Inlets Cthe waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets open to the sea (excluding rivers, tidal marshes, lakes

and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 meters) deep, as measured from the mean low water.

Hazard to Navigation Cfor the purpose of this Chapter, a pipeline where the top of the pipe is less than 12 inches (305 millimeters) below the seabed in water less than 15 feet (4.6 meters) deep, as measured from the mean low water.

* * *

Outer Continental Shelf Call submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

* * *

Specified Minimum Yield Strength Cthe minimum yield strength, expressed in pounds per square inch (p.s.i.) (kPa) gauge, prescribed by the specification under which the material is purchased from the material is purchased from the manufacturer.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 27:0000 (September 2001).

§30107. Matter Incorporated by Reference

A. - B.5. ...

6. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

7. National Fire Protection Association (NFPA), 11 Tracy Drive, Avon, MA 02322.

C. The full titles of publications incorporated by reference wholly or partially in this Part are as follows. Numbers in parentheses indicate applicable editions.

C.1. ...

2. American Petroleum Institute (API).

a. API 1130 *Computational Pipeline Monitoring* (1st edition, 1995)

b. API 510 *Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration* (8th edition, June 1997)

c. API Publication 2026 *Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service* (2nd edition, April 1998)

d. API Recommended Practice 651 *Cathodic Protection of Aboveground Petroleum Storage Tanks* (2nd edition, December 1997)

e. API Recommended Practice 652 *Lining of Aboveground Petroleum Storage Tank Bottoms* (2nd edition, December 1997)

f. API Recommended Practice 2003 *Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents* (6th edition, December 1998)

g. API Recommended Practice 2350 *Overflow Protection for Storage Tanks in Petroleum Facilities* (2nd edition, January 1996)

h. API Specification 5L *Specification for Line Pipe* (41st edition, 1995)

i. API Specification 6D *Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)* (21st edition, 1994)

j. API Specification 12F *Specification for Shop Welded Tanks for Storage of Production Liquids* (11th edition, November 1994)

k. API Standard 1104 *Welding Pipelines and Related Facilities* (18th edition, 1994)

l. API Standard 620 *Design and Construction of Large, Welded, Low-Pressure Storage Tanks* (9th edition, February 1996, Including Addenda 1 and 2)

m. API Standard 650 *Welded Steel Tanks for Oil Storage* (9th edition, July 1993, Including Addenda 1 and 2);

n. API Standard 653 *Tank Inspection, Repair Alteration, and Reconstruction* (2nd edition, December 1995, including Addenda 1 and 2)

o. API Standard 2000 *Venting Atmospheric and Low-Pressure Storage Tanks* (4th edition, September 1992);

p. API Standard 2510 *Design and Construction of LPG Installations* (7th edition, May 1995)

C.3. - C.3.e. ...

f. ASME Boiler and Pressure Vessel Code, Section IX *Welding and Brazing Qualifications* (1995 edition with 1995 Addenda)

C.4. - C.4.b. ...

5. American Society for Testing and Materials (ASTM)

a. ASTM Designation A 53 *Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless* (A 53-96)

b. ASTM Designation: A 106 *Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service* (A 106-95)

C.5.c. - f. ...

g. ASTM Designation: A 691 *Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures* (A 691-93)

h. National Fire Protection Association (NFPA): *ANSI/NFPA 30 Flammable and Combustible Liquids Code*. (1996)

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (July 1998), LR 27:0000 (September 2001).

§30114. Outer Continental Shelf Pipelines

A. Operators of transportation pipelines on the Outer Continental Shelf must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic maintained near the transfer point. If a transfer point is located subsea, the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to RSPA upon request. For those cases in which adjoining operators have

not agreed on a transfer point by September 15, 1998 the Regional Director and the MMS Regional Supervisor will make a joint determination of the transfer point.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

Subchapter B. Reporting Accidents and Safety-Related Conditions

§30125. Reporting Accidents

A. An accident report is required for each failure in a pipeline system subject to this Part in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

1. explosion or fire not intentionally set by the operator;

2. loss of 50 or more barrels (8 or more cubic meters) of hazardous liquid or carbon dioxide;

3. escape to the atmosphere of more than five barrels (0.8 cubic meters) a day of highly volatile liquids;

A.4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 21:816 (August 1995), LR 27:0000 (September 2001).

§30133. Reporting Safety-Related Conditions

A. - A.6. ...

B. A report is not required for any safety-related condition that:

1. exist on a pipeline that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway, or that occur offshore, or at on-shore locations where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water;

B.2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), LR 27:0000 (September 2001).

§30147. Abandoned Underwater Facilities Report

A. For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility.

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at (703) 317-3073. A digital data format is preferred, but a hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and

certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or email to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax [202] 366-4566; email, roger.little@rspa.dot.gov. The information in the report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed before April 10, 2001. Operators may submit reports by mail, fax, email to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax [202] 366-4566; email, roger.little@rspa.dot.gov. The information in the report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

Subchapter C. Design Requirements

§30161. Internal Design Pressure

A. Internal design pressure for the pipe in a pipeline is determined in accordance with the following formula:

$$P = (2 St/D) \times E \times F$$

P = internal design pressure in pounds per square inch (p.s.i.) (kPa) gauge.

S = yield strength in pounds per square inch (p.s.i.) (kPa) gauge determined in accordance with §30161.B.

t = nominal wall thickness of the pipe in inches (millimeters). If this is unknown, it is determined in accordance with §30161.C.

D = outside diameter of the pipe in inches (millimeters).

E = seam joint factor determined in accordance with §30161.E.

F = a design factor of 0.72, except that a design factor of 0.60 is used for pipe, including risers, on a platform located offshore or on a platform in inland navigable waters, and 0.54 is used for pipe that has been subjected to cold expansion to meet the specified minimum yield strength and is subsequently heated, other than by welding or stress relieving as a part of welding, to a temperature higher than 900° F (482° C) for any period of time or over 600° F (316° C) for more than one hour.

B. The yield strength to be used in determining the internal design pressure under §30161.A is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength to be used in the design formula is one of the following:

1. the yield strength determined by performing all of the tensile tests of API Specification 5L on randomly selected specimens with the following number of tests:

Pipeline Size	Number of Tests
Less than 168.3 mm (6 5/8 in.) nominal outside diameter (168 mm)	One test for each 200 lengths
168.3 through 323.8 mm (6 5/8 through 12 3/4 in.) nominal outside diameter (168 mm through 324 mm)	One test for each 100 lengths
Larger than 323.8 mm (12 3/4 in.) nominal outside diameter 12 3/4 in (324 mm)	One test for each 50 lengths

2. If the average yield-tensile ratio exceeds 0.85, the yield strength shall be taken as 165,474 kPa (24,000 psi). If the average yield tensile ratio is 0.85 or less, the yield strength of the pipe is taken as the lower of the following:

a. eighty percent of the average yield strength determined by the tensile tests;

b. the lowest yield strength determined by the tensile tests.

3. If the pipe is not tensile tested as provided in Subsection B, the yield strength shall be taken as 165,474 kPa (24,000 psi).

C. If the nominal wall thickness to be used in determining internal design pressure under §30161.A is not known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end. However, if the pipe is of uniform grade, size and thickness, only 10 individual lengths or 5 percent of all lengths, whichever is greater, need be measured. The thickness of the lengths that are not measured must be verified by applying a gauge set to the minimum thickness found by the measurement. The nominal wall thickness to be used is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness may not be more than 1.14 times the smallest measurement taken on pipe that is less than 508 mm (20 in.) nominal outside diameter, nor more than 1.11 times the smallest measurement taken on pipe that is 508 mm (20 in.) or more in nominal outside diameter.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (April 1994), LR 21:817 (August 1995), LR 27:0000 (September 2001).

§30169. New Pipe

A. - A.2. ...

3. Each length of pipe with a nominal outside diameter of 4 1/2 in. (114.3 mm) or more must be marked on the pipe or pipe coating with the specification to which it was made, the specified minimum yield strength or grade, and the pipe size. The marking must be applied in a manner that does not damage the pipe or pipe coating and must remain visible until the pipe is installed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:0000 (September 2001).

§30177. Passage of Internal Inspection Devices

A. - B.5. ...

6. offshore pipelines, other than main lines 19 inches (254 mm) or greater in nominal diameter, that transport liquids to onshore facilities; and

B.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:0000 (September 2001).

§30189. Above Ground Breakout Tanks

A. Each aboveground breakout tank must be designed and constructed to withstand the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads.

B. For aboveground breakout tanks first placed in service after October 2, 2000, compliance with paragraph A. of this section requires one of the following.

1. Shop-fabricated, vertical, cylindrical, closed top, welded steel tanks with nominal capacities of 90 to 750 barrels (14.3 to 119.2 m³) and with internal vapor space pressures that are approximately atmospheric must be designed and constructed in accordance with API Specification 12F.

2. Welded, low-pressure (i.e., internal vapor space pressure not greater than 15 psig (103.4 kPa)), carbon steel tanks that have wall shapes that can be generated by a single vertical axis of revolution must be designed and constructed in accordance with API Standard 620.

3. Vertical, cylindrical, welded steel tanks with internal pressures at the tank top approximately atmospheric pressures (i.e., internal vapor space pressures not greater than 2.5 psig (17.2 kPa), or not greater than the pressure developed by the weight of the tank roof) must be designed and constructed in accordance with API Standard 650.

4. High pressure steel tanks (i.e., internal gas or vapor space pressures greater than 15 psig (103.4 kPa)) with a nominal capacity of 2000 gallons (7571 liters) or more of liquefied petroleum gas (LPG) must be designed and constructed in accordance with AOI Standard 2510.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

§30191. CPM Leak Detection

A. This section applies to each hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid). On such systems, each new computational pipeline monitoring (CPM) leak detection system and each replaced component of an existing CPM system must comply with section 4.2 of API 1130 in its design and with any other design criteria addressed in API 1130 for components of the CPM leak detection system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

Subchapter D. Construction

§30201. Scope

A. - B. ...

C. Inspection. General. Inspection must be provided to ensure the installation of pipe or pipeline systems in accordance with the requirements of this Subchapter. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources, of proposed pipeline construction at least seven days prior to commencement of said construction. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected.

D. Material Inspection. No pipe or other component may be installed in a pipeline system unless it has been visually inspected at the site of installation to ensure that it is not damaged in a manner that could impair its strength or reduce its serviceability.

E. Welding of Supports and Braces. Supports or braces may not be welded directly to pipe that will be operated at a pressure of more than 100 p.s.i. (89 kPa) gauge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

§30203. Pipe Location

A. ...

B. No pipeline may be located within 50 feet (15 meters) of any private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or assemble, unless it is provided with at least 12 inches (305 mm) of cover in addition to that prescribed in §30221.

AUTHORITY NOTE: Promulgated in accordance with 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

§30205. Bending of Pipe

A. - B.3.a. ...

b. the pipe is 12 3/4 (324 mm) or less nominal outside diameter or has a diameter to wall thickness ratio less than 70;

c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:818 (August 1995), LR 27:0000 (September 2001).

§30215. Cathodic Protection System

A. - B. ..

C. For the bottoms of aboveground breakout tanks with greater than 500 barrels (79.5 m³) capacity built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), the installation of a cathodic protection system under paragraph A of this section after October 2, 2000, must be in accordance with API Recommended Practice 651, unless the operator notes in the procedural manual (§30259.C) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of a particular breakout tank.

D. For the internal bottom of aboveground breakout tanks built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), the installation of a tank bottom lining after October 2, 2000, must be in accordance with API Recommended Practice 652, unless the operator notes in the procedural manual (§30259.C) why compliance with all or certain provisions of API Recommended Practice 62 is not necessary for the safety of a particular breakout tank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

§30221. Cover Over Buried Pipeline

A. Unless specifically exempted in this Subchapter, all pipe must be buried so that it is below the level of cultivation. Except as provided in §30221.B, the pipe must be installed so that the cover between the top of the pipe and the ground level, road bed, river bottom, or sea bottom, as applicable, complies with the following table:

Location	Cover inches (millimeters)	
	For Normal Excavation	For Rock Excavation
Industrial, commercial and residential area	36 (914)	30 (762)
Crossing of inland bodies of water with a width of at least 100 ft. (30 m) from high water mark to high water mark	48 (1219)	48 (1219)
Drainage ditches at public roads and railroads	36 (914)	36 (914)
Deepwater port safety zone	48 (1219)	24 (610)
Other offshore areas under water less than 12 ft. (3.7 m) deep as measured from the mean low tide	36 (914)	18 (457)
Any other area	30 (762)	18 (457)

A.1. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:818 (August 1995), LR 27:0000 (September 2001).

§30223. Clearance Between Pipe and Underground Structures

A. Any pipe installed underground must have at least 12 inches (305 mm) of clearance between the outside of the pipe and the extremity of any other underground structure except that for drainage tile the minimum clearance may be less than 12 inches (305 mm) but not less than two inches (51 mm). However, where 12 inches (305 mm) of clearance is impracticable, the clearance may be reduced if adequate provisions are made for corrosion control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

§30235. Valves: Location

A. A valve must be installed at each of the following locations:

A.1. - A.4. ...

5. on each side of a water crossing that is more than 100 feet (30 m) wide from high-water mark to high-water mark unless the secretary finds in a particular case that valves are not justified;

A.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

§30239. Impoundment, Protection Against Entry, Normal/Emergency Venting or Pressure/Vacuum Relief for Aboveground Breakout Tanks

A. A means must be provided for containing hazardous liquids in the event of spillage or failure of an aboveground breakout tank.

B. After October 2, 2000, compliance with paragraph A. of this section requires the following for the aboveground breakout tanks specified.

1. for tanks built to API Specification 12F, API Standard 620, and others (such as API Standard 650 or its predecessor Standard 12C), the installation of impoundment must be in accordance with the following sections of NFPA 30:

a. impoundment around a breakout tank must be installed in accordance with Section 2-3.4.3; and

b. impoundment by drainage to a remote impounding area must be installed in accordance with Section 2-3.4.2.

2. For tanks built to API Standard 2510, the installation of impoundment must be in accordance with Section 3 or 9 of API Standard 2510.

C. Aboveground breakout tank areas must be adequately protected against unauthorized entry.

D. Normal/emergency relief venting must be provided for each atmospheric pressure breakout tank. Pressure/vacuum-relieving devices must be provided for each low-pressure and high-pressure breakout tank.

E. For normal/emergency relief venting and pressure/vacuum-relieving devices installed on aboveground breakout tanks after October 2, 2000, compliance with paragraph D. of this section requires the following for the tanks specified.

1. Normal/emergency relief venting installed on atmospheric pressure tanks built to API Specifications 12F must be in accordance with Section 4, and Appendices B and C, of API Specification 12F.

2. Normal/emergency relief venting installed on atmospheric pressure tanks (such as those built to API Standard 650 or its predecessor Standard 12C) must be in accordance with API Standard 2000.

3. Pressure-relieving and emergency vacuum-relieving devices installed on low pressure tanks built to API Standard 620 must be in accordance with Section 7 of API Standard 620 and its references to the normal and emergency venting requirements in API Standard 2000.

4. Pressure and vacuum-relieving devices installed on high pressure tanks built to API Standard 2510 must be in accordance with Sections 5 or 9 of API Standard 2510.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

Subchapter E. Hydrostatic Testing

§30247. General Requirements

A. - C. ...

1. before December 7, 1998, for each pipeline each operator shall:

a. plan and schedule testing, according to this Subsection; or

b. establish the pipelines maximum operating pressure under §30265.A.5.

2. for pipelines scheduled for testing, each operator shall:

a. before December 7, 2000, pressure test:

i. each pipeline identified by name, symbol, or otherwise that existing records show contains more than 50 percent by mileage (length) of electric resistance welded pipe manufactured before 1970; and

ii. at least 50 percent of the mileage (length) of all other pipelines; and

b. before December 7, 2003, pressure test the remainder of the pipeline mileage (length).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:818 (August 1995), LR 27:0000 (September 2001).

§30248. Test Pressure

A. The test pressure for each pressure test conducted under this Subpart must be maintained throughout the part of the system being tested for at least four continuous hours at a pressure equal to 125 percent, or more, of the maximum operating pressure and in the case of a pipeline that is not visually inspected for leakage during the test, for at least an additional four continuous hours at a pressure equal to 110 percent, or more, of the maximum operating pressure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30249. Testing

A. - B.2.a. ...

b. each building within 300 feet (91 meters) of the test section is unoccupied while the test pressure is equal to or greater than a pressure which produces a hoop stress of 50 percent of specified minimum yield strength;

B.2.c. - 3.a. ...

b. each building within 300 feet (91 meters) of the test section is unoccupied while the test pressure is equal to or greater than a pressure that produces a hoop stress of 50 percent of specified minimum yield strength;

3.c. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21:819 (August 1995), LR 27:0000 (September 2001).

§30250. Pressure Testing Aboveground Breakout Tanks

A. For aboveground breakout tanks built to API Specification 12F and first placed in service after October 2,

2000, pneumatic testing must be in accordance with section 5.3 of API Specification 12F.

B. For aboveground breakout tanks built to API Standard 620 and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with section 5.18 of API Standard 620.

C. For aboveground breakout tanks built to API Standard 650 and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with section 5.3 of API Standard 650.

D. For aboveground atmospheric pressure breakout tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated and tanks built to API Standard 650 or its predecessor Standard 12C that are returned to service after October 2, 2000, the necessity for the hydrostatic testing of repair, alteration, and reconstruction is covered in section 10.3 of API Standard 653.

E. For aboveground breakout tanks built to API Standard 2510 and first placed in service after October 2, 2000, pressure testing must be in accordance with ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 or 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30251. Records

A. - B.8. ...

9. where elevation differences in the section under test exceed 100 feet (30 meters), a profile of the pipeline that shows the elevation and test sites over the entire length of the test section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

Subchapter F. Operation and Maintenance

§30259. Procedural Manual for Operations,

Maintenance, and Emergencies

A. - C.9. ...

10. abandoning pipeline facilities, including safe disconnection from an operating pipeline system, purging of combustibles, and sealing abandoned facilities left in place to minimize safety and environmental hazards;

C.11. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21:819 (August 1995), LR 24:1314 (July 1998), LR 27:0000 (September 2001).

§30262. Emergency Response Training

After October 28, 2002, this Section will be in effect.

A. Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

1. carry out the emergency procedures established under §30259 that relate to their assignments;

2. know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

3. recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquids or carbon dioxide spills, and take appropriate corrective action;

4. take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage; and

5. learn the proper use of firefighting procedures and equipment, fire suits, and breathing apparatus by utilizing, where feasible, a simulated pipeline emergency condition.

B. At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

1. review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph A of this section; and

2. make appropriate changes to the emergency response training program as necessary to insure that it is effective.

C. Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under §30259 for which they are responsible to ensure compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 27:0000 (September 2001).

§30264. Protection Against Ignitions and Safe

Access/Egress Involving Floating Roofs

A. After October 2, 2000, protection provided against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving above ground breakout tanks must be in accordance with API Recommended Practice 2003, unless the operator notes in the procedural manual [Sec. 195.402 (c)] why compliance with all or certain provisions of API Recommended Practice 2003 is not necessary for the safety of a particular breakout tank.

B. The hazards associated with access/egress onto floating roofs of in-service aboveground breakout tanks to perform inspection, service, maintenance or repair activities (other than specified general considerations, specified routine tasks or entering tanks removed from service for cleaning) are addressed in API Publication 2026. After October 2, 2000, the operator must review and consider the potentially hazardous conditions, safety practices and procedures in API Publication 2026 for inclusion in the procedure manual [Sec. 195.402 (c)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30265. Maximum Operating Pressure

A. - A.1.a. ...

b. if the pipe is 12 3/4 in. (324 mm) or less outside diameter and is not tested to yield under this paragraph, 200 p.s.i. (1379 kPa) gauge.

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:819 (August 1995), LR 27:0000 (September 2001).

§30269. Line Markers

A. - A.2. ...

a. the word "Warning," "Caution," or "Danger," followed by the words "Petroleum (or the name of the hazardous liquid transported) Pipeline," or "Carbon Dioxide Pipeline," all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch (25 millimeters) high with an approximate stroke of 1/4 inch (6.4 millimeters).

A.2.b. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 24:1314 (July 1998), LR 27:0000 (September 2001).

§30272. Underwater Inspection and Reburial

of Pipelines in the Gulf of Mexico and Its Inlets

A. Except for gathering lines of 4 1/2 inches (114 mm) nominal outside diameter or smaller, each operator shall, in accordance with this section, conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before November 16, 1992.

B. - B.1. ...

2. promptly, but not later than 7 days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards (457 meters) long, except that a pipeline segment less than 200 yards (183 meters) long need only be marked at the center; and

3. within 6 months after discovery, or not later than November 1 of the following year if the 6 month period is after November 1 of the year that the discovery is made, place the pipeline so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18:865 (August 1992), LR 21:820 (August 1995), LR 27:0000 (September 2001).

§30275. External Corrosion Control

A. - E. ...

F. Any pipe that is found to be generally corroded so that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances must be replaced with coated pipe that meets the requirements of this part. However, generally corroded pipe need not be replaced if:

1. the operating pressure is reduced to be commensurate with the limits on operating pressure specified in this subpart, based on the actual remaining wall thickness; or

2. the pipe is repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

G. - H. ...

I. Each operator shall clean, coat with material suitable for the prevention of atmospheric corrosion, and , maintain this protection for, each component in its pipeline system that is exposed to the atmosphere.

J. For aboveground breakout tanks where corrosion by a cathodic protection system, the cathodic protection system must be inspected to ensure it is operated and maintained in accordance with API Recommended Practice 651, unless the operator notes in the procedure manual (Sec. 195.402 (c)) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of a particular breakout tank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:820 (August 1995), LR 27:0000 (September 2001).

§30283. Pipe Movement

A. - B.3.a. ...

b. the lowest practical level that will maintain the highly volatile liquid in a liquid state with continuous flow, but not less than 50 p.s.i. (345 kPa) gauge above the vapor pressure of the commodity.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

§30287. Overpressure Safety Devices

A. - B. ...

C. Aboveground breakout tanks that are constructed or significantly altered according to API Standard 2510 after October 2, 2000, must have an overflow protection system installed according to section 5.1.2 of API Standard 2510. Other aboveground breakout tanks with 600 gallons (2271 liters) or more of storage capacity that are constructed or significantly altered after October 2, 2000, must have an overflow protection system installed according to API Recommended Practice 2350. However, operators need not comply with any part of API Recommended Practice 2350 for a particular breakout tank if the operator notes in the manual required by Sec. 195.402 why compliance with that part is not necessary for safety of the tank.

D. After October 2, 2000, the requirements of paragraphs A and B of this section for inspection and testing of pressure control equipment apply to the inspection and testing of overflow protection systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

§30291. Inspection of In-Service Breakout Tanks

A. Except for breakout tanks inspected under paragraphs B and C of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect each in-service breakout tank.

B. Each operator shall inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to section 4 of API Standard 653. However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a

plan included in the operations and maintenance manual under Sec. 195.402 (c)(3).

C. Each operator shall inspect the physical integrity of in-service steel aboveground breakout tanks built to API Standard 2510 according to section 6 of API 510.

D. The intervals of inspection specified by documents referenced in paragraphs B and C of this section begin on May 3, 1999, or on the operator's last recorded date of the inspection, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:0000 (September 2001).

§30296. Smoking or Open Flames

A. Each operator shall prohibit smoking and open flames in each pump station area and each breakout tank area where there is a possibility of the leakage of a flammable hazardous liquid or of the presence of flammable vapors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30297. Public Education

A. Each operator shall establish a continuing educational program to enable the public, appropriate government organizations and persons engaged in excavation-related activities to recognize a hazardous liquid or a carbon dioxide pipeline emergency and to report it to the operator or the fire, police, or other appropriate public officials. The program must be conducted in English or in other languages commonly understood by a significant number and concentration of non-English speaking population in the operator's operating areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:866 (August 1992), LR 27:0000 (September 2001).

§30298. Damage Prevention Program

A. Except as provided in Subsection C of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

B. An operator may comply with any of the requirements of Subsection C of this section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of the responsibility for compliance with this section. However, an operator must perform the duties of Subsection C.3. of this section through participation in a one-call system, if that one-call system is a qualified one call-system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system

where there is one in place. For the purpose of the section, a one-call system is considered a "qualified one-call system" if it meets the requirements of Subsection B.1. or B.2. of this section:

1. the state has adopted a one-call damage prevention program under 49 CFR 198.37; or
2. the one-call system:
 - i. is operated in accordance with 49 CFR 198.39;
 - ii. provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and
 - iii. assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call system's coverage of the operator's pipeline.

C. The damage prevention program required by Subsection A. of this section must, at a minimum:

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located.
2. provide for notification of the public in the vicinity of the pipeline and actual notification of persons identified in Subsection C.1. of this section of the following as often as needed to make them aware of the damage prevention program:
 - a. the program's existence and purpose; and
 - b. how to learn the location of underground pipelines before excavation activities are begun;
3. provide a means of receiving and recording notification of planned excavation activities;
4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;
5. provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins;
6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:
 - a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and
 - b. in the case of blasting, any inspection must include leakage surveys.

D. A damage prevention program under this section is not required for the following pipelines:

1. pipelines located offshore;
2. pipelines to which access is physically controlled by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:1315 (July 1998), amended LR 27:0000 (September 2001).

§30299. CPM Leak Detection

A. Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid) must comply with API 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

Subchapter G. Operator Qualification

§30301. Scope

A. This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

B. For the purpose of this subpart, a covered task is an activity, identified by the operator, that:

1. is performed on a pipeline facility;
2. is an operations or maintenance task;
3. is performed as a requirement of this part; and
4. affects the operation or integrity of the pipeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30303. Definitions

Abnormal Operating Condition Ca condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

1. indicate a condition exceeding design limits; or
2. result in a hazard(s) to persons, property, or the environment.

Evaluation Ca process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

1. written examination;
2. oral examination;
3. work performance history review;
4. observation during:
5. performance on the job;
6. on the job training, or
7. simulations; or
8. other forms of assessment.

Qualified Can individual has been evaluated and can:

1. perform assigned covered tasks; and
2. recognize and react to abnormal operating conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30305. Qualification Program

A. Each operator shall have and follow a written qualification program. The program shall include provisions to:

1. identify covered tasks;
2. ensure through evaluation that individuals performing covered tasks are qualified;
3. allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;
4. evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in §30125;

5. evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

6. communicate changes that affect covered tasks to individuals performing those covered tasks; and

7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30307. Record Keeping

A. Each operator shall maintain records that demonstrate compliance with this subpart.

1. Qualification records shall include:

a. identification of qualified individual(s);

b. identification of the covered tasks the individual is qualified to perform;

c. date(s) of current qualification; and

d. qualification method(s).

2. Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30309. General

A. Operators must have a written qualification program by April 27, 2001.

B. Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.

C. Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to August 27, 1999.

D. After October 28, 2002, work performance history may not be used as a sole evaluation method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

Chapter 304. Hazardous Liquids Pipeline Enforcement

§30401. Scope

A. This regulation prescribes the authority of the assistant secretary of the Office of Conservation and procedures to be utilized by him in carrying out his duties regarding administration and enforcement of R.S. 30:701, et seq., and the Rules and regulations promulgated thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30403. Service

A. Except as herein provided, any order, notice or other documents required to be served under this regulation shall be served personally or by registered or certified mail.

B. Should the assistant secretary elect to make personal service, it may be made by an officer authorized to serve

process or any agent or employee of the assistant secretary in the same manner as is provided by law for the service of citation in civil actions in the district courts. Proof of service by an agent or employee shall be by the affidavit of the person making it.

C. Service upon a person's duly authorized representative, officer or agent constitutes service upon that person.

D. Service by registered or certified mail is complete upon mailing. An official U.S. postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30405. Subpoenas

A. The assistant secretary may sign and issue subpoenas either on his own initiative or, upon request and adequate showing by any person participating in any proceeding before the assistant secretary that the information sought is relevant and will materially advance the proceeding.

B. A subpoena may require the attendance of a witness for the purpose of giving testimony, or the production of documents or other tangible evidence in the possession or under the control of the person served, or both.

C. A subpoena may be served by any agent of the Department of Conservation, by the sheriff of the parish where service is to be made or the parish where the action is pending or by any other person authorized by the law to serve process in this state.

D. Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person. Delivery of a copy of a subpoena may be made by handing them to the person, leaving them at his office with persons in charge thereof, leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, or by any method whereby actual notice is given to him.

E. When the person to be served is not a natural person, delivery of a copy of the subpoena may be affected by handing them to a designated agent or representative for service, or to any officer, director, or agent in charge of any office of the person.

F. The original subpoena bearing a certificate of service shall be filed in the assistant secretary's records for the proceedings in connection with which the subpoena was issued.

G. No person shall be excused from attending and testifying or producing books, papers, or records, or from obeying the subpoena of the assistant secretary, or of a court of record on the grounds that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. Pursuant to R.S. 30:8(4), no natural person shall be subject to criminal prosecution or to any penalty or forfeiture on account of anything concerning which may be required to testify or produce evidence before the assistant secretary or a court of law; however, no person testifying shall be exempt from prosecution and punishment for perjury.

H. In the case of failure or refusal of a person to comply with a subpoena issued by the assistant secretary, or in the

case of a refusal of a witness to testify or answer as to a matter regarding which he may be lawfully interrogated, any district court on the application of the assistant secretary may, in term time or in vacation, issue an attachment for the person to compel him to comply with the subpoena and to attend before the assistant secretary with the desired documents and to give his testimony upon whatever matters are lawfully required. The court may punish for contempt those disobeying its orders as in the case of disobedience of a subpoena issued by the court or refusal to testify therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30407. Inspection, Field Inspection Reports

A. Officers, employees or agents authorized by the assistant secretary, upon presenting proper credentials, are authorized to enter upon, inspect and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent that such records and properties are relevant to determining compliance of such person with R.S. 30:701, et seq. or any Rules, regulations or orders issued thereunder.

B. Inspection may be conducted pursuant to a routine schedule, a complaint received from a member of the public, information obtained from a previous inspection, report of accident or incident involving facilities, or whenever deemed appropriate by the assistant secretary.

C. If, after inspection, the assistant secretary believes that further information is needed or required to determine compliance or appropriate action, the assistant secretary may request specific information of the person or operator to be answered within ten days of receipt of said request.

D. The assistant secretary may, to the extent necessary to carry out his responsibilities, require reasonable testing of any portion of a facility in connection with a violation or suspected violation.

E. When information obtained from an inspection indicates that a violation has probably occurred, the inspector shall complete a field inspection report as to the nature of the violation citing the specific provisions which have been violated. Said field inspection report shall be filed with the assistant secretary for review and further action, if appropriate.

F. The assistant secretary or his agent, after review of the field inspection report, and depending upon the severity of the violation and the exigency of the situation, may issued to the operator a letter of non-compliance or initiate one or more enforcement proceedings prescribed by §30411 through 30419.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation Pipeline Division, LR 27:0000 (September 2001).

§30409. Letter of Non-compliance; Relief Therefrom

A. Upon determination that a probable violation of R.S. 30:701, et seq., or any Rule, regulation or order issued thereunder has occurred, the assistant secretary may institute enforcement procedures by serving upon the hazardous liquid pipeline operator a letter of non-compliance notifying said operator of said probable violation and directing said

operator to correct said violation within a designated period of time to be determined by the assistant secretary or be subject to enforcement action prescribed by §30411 through §30419. A copy of the field inspection report or other evidence of violation shall be attached to the letter of non-compliance. The letter of non-compliance may inform the operator of the time at which reinspection of the facility will be conducted to confirm compliance and shall inform the operator of the time delays and procedure available to said operator for securing relief from said letter of non-compliance.

B. Except in cases of emergency action instituted pursuant to §30415, within seven days of receipt of a letter of non-compliance, the operator who believes himself to be in compliance with the applicable statute and the Rules, regulations or orders issued thereunder or who believes the time limits imposed upon him for compliance to be burdensome, may request for said conference may be verbal or presented in writing.

C. The conference before the assistant secretary or his agent shall be informal without strict adherence to Rules of evidence. The operator may submit any relevant information and materials which shall become part of the record and may examine the assistant secretary's files relative to the probable violation. If circumstances are deemed appropriate by the assistant secretary and upon request of the operator, this conference may be held by telephone conference.

D. Upon conclusion of the conference for relief the assistant secretary may issue to the operator a modified letter of non-compliance extending the time for compliance or containing such other terms and conditions as may be appropriate considering the nature of the probable violation, the circumstances and exigency of the situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30411. Reinspection, Show Cause Conference

A. Upon expiration of the delay allowed in the letter of non-compliance of modified letter of non-compliance for correcting said probable violation, the operator's facilities shall be reinspected and if the operator is found to be in compliance, the enforcement file for said violation will be closed.

B. If upon reinspection the operator is found to be in violation of the statute, Rule or regulation for which a letter of non-compliance has been issued, the assistant secretary may:

1. re-issue to the operator in the form of a letter of non-compliance containing such modifications or extensions of time as the case may warrant;

2. require that the operator attend a show cause conference with the assistant secretary or his agent to review the compliant and the operator's efforts in resolving correcting the violation and at the conclusion of said conference the assistant secretary may re-issue a modified letter of non-compliance containing such modifications or extensions of times as the case may warrant; or

3. immediately after reinspection or after the show cause conference, initiate one or more enforcement proceedings prescribed by §30413 through §30419.

C. The show cause conference shall be conducted informally without strict adherence to the Rules of evidence. The operator may submit any relevant information, call witnesses against him. No detailed record of said conference shall be prepared but said record shall contain the materials in the enforcement case file pertinent to the issues, relevant submissions of the operator and the written recommendations of the assistant secretary or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30413. Show Cause Hearing, Notice, Rules of Procedure, Record, Order of Compliance

A. At any time that the assistant secretary determines that such action is appropriate, he may direct that an operator attend a formal show cause hearing and to show cause at said hearing why he should not be compelled to comply with applicable statutes and the Rules and regulations promulgated thereunder.

B. The operator shall be given at least ten days notice of said show cause hearing in the manner herein provided and shall be required to attend. The assistant secretary may issue such subpoenas as may be necessary for the attendance of witness and the production of documents.

C. The show cause hearing shall be conducted in accordance with the procedures for adjudication prescribed by the Administrative Procedures Act.

D. The record of the case shall include those items required by R.S. 49:955E together with the enforcement file for the violation in question which enforcement file may include inspection reports and other evidence of violation, letters of non-compliance, modified letters of non-compliance, materials submitted by the operator pursuant to §30409 and §30411, all correspondence and orders directed to the operator by the assistant secretary correspondence received by the assistant secretary from the operator, and evaluations and recommendations of the assistant secretary or his staff.

E. After conclusion of the show cause hearing the assistant secretary shall issue an order of compliance directed to the operator setting forth findings and determinations on all material issues, including a determination as to whether each alleged violation has been proven, and a statement of the actions required to be taken by the operator and the time by which such actions must be accomplished. The compliance order shall become final as specified by the Administrative Procedures Act.

F. The assistant secretary may tax the operator with all costs of said hearing including but not limited to transcription and service costs and hearing fees in the amount prescribed by R.S.30:21.

G. The operator and the assistant secretary may consent to waiver of the show cause hearing and enter into a consent order which will become final and non-appealable upon its issuance.

H. If the operator fails to comply with the final order of compliance, the assistant secretary may take whatever civil or criminal action is necessary to enforce said order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30415. Emergency

A. Should the assistant secretary, the director of pipelines or the chief of pipeline safety find an existing emergency due to non-compliance with law or the Rules, regulations or orders issued pursuant thereto or due to leakage or other hazard which in his judgment requires the issuance of an emergency order or an order for the immediate termination of the offending service without first complying with the procedures set forth herein and without having a hearing, he may issue the emergency order or terminate said offending service and invoke a show cause hearing pursuant to §30413 requiring the operator to show cause why the circumstances giving rise to the emergency should not be corrected. The emergency order or order for termination of the offending service shall remain in force no longer than 15 days from its effective date. In any event, the emergency order shall expire when the order made after notice and hearing with respect to the same subject matter becomes effective. An emergency is defined as any situation where there is a substantial likelihood that loss of life, personal injury, health or property will result before the procedures under this regulation for notice and hearing can be fully complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30417. Hazardous Facility Orders

A. Notwithstanding any self imposed regulatory limitations, if the assistant secretary finds, after reasonable notice and an opportunity to be heard in accordance with §30413, a particular pipeline facility subject to R.S. 30:701 to be hazardous to life or property, he may issue an order requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, inspection, testing, repair, replacement, or other action as appropriate. The provisions of §30415 shall also be applicable for issuance of hazardous facility orders on an emergency basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30419. Civil Enforcement, Injunction

A. Whenever it appears to the assistant secretary that any person or operator has engaged, is engaged, or is about to engage in any act or practice constituting a violation of R.S. 30:701, et seq., or any Rule, regulation or order issued thereunder, he may bring an action in the court having jurisdiction, to enjoin such acts or practice and to enforce compliance with the applicable statute and the Rules, regulations and orders issued pursuant thereto, and upon proper showing a temporary restraining order or a preliminary or permanent injunction commanding any person to comply with the applicable law or any Rule,

regulation or order issued thereunder, and to make restitution of money received in violation of any such Rule, regulation or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30421. Violation, Penalties

A. After notice and opportunity to be heard, in accordance with §30413, the assistant secretary may, after determining that a person has violated any provision of R.S. 30:701, et seq., or any Rule, regulation or order issued pursuant thereto, assess a civil penalty upon or against said person not to exceed the amounts fixed by statute, particularly, but not exclusively, R.S. 30:705. The amount of the penalty shall be assessed by the assistant secretary by written notice. In determining the amount of penalty, the assistant secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

B. The assistant secretary may transmit such evidence as may be available concerning acts or practice in violation of R.S. 30:701, et seq. or any Rules, regulation or order issued pursuant thereto or any order issued pursuant to this regulation to the district attorney having jurisdiction over same who, in his discretion, may institute necessary proceedings to collect the fines and impose the penalties provided by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§30423. Waiver of Compliance with Standards

A. Upon application by any person engaged in the transportation of hazardous liquids or the operation of intrastate pipeline facilities, the assistant secretary shall, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as the assistant secretary may deem reasonable and proper, waive in whole or in part compliance with any standard established under R.S. 30:701, et seq., if he determines that compliance with such standard works a substantial hardship on an owner or operator of pipeline facilities or is not in the public interest and a waiver of compliance with such standard is not inconsistent with pipeline safety, provided that such waiver shall not be effective until the requirements of 49 U.S.C.A. Section 2001, et seq. relative to such a waiver have first been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, amended LR 27:0000 (September 2001).

Philip N. Asproditis
Commissioner of Conservation

0109#015

RULE

Department of Natural Resources Office of Conservation Pipeline Division

Pipeline SafetyCNatural Gas (LAC 43:XIII.Chapters 1-30)

In accordance with the Administrative Procedure Act, R.S. 49:950, and pursuant to the power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Statutes of 1950, Section 501 et seq., the Office of Conservation has amended the natural gas pipeline safety regulations, LAC 43:XIII.Chapters 1-30.

This Rule is identical to federal regulations found in 49 CFR Part 192, which are applicable in Louisiana. For more information regarding this Rule, contact the Pipeline Safety Section at (225) 342-5585 or P. O. Box 94275, Baton Rouge, LA 70804-9275.

This Rule package consists of amendments affecting minimum safety design requirements for natural gas pipelines. Added language includes new requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation-Pipeline Safety

Subpart 1. General Provisions

Chapter 1. General

§101. Applicability

A. - B.2. ...

3. on the outer continental shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (April 1994), LR 27:0000 (September 2001).

§125. Definitions

*Abandoned*Cpermanently removed from service.

*Administrator*Cthe administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

*Building*Cany structure in which gas can accumulate.

BusinessCa permanent structure occupied for the express usage of wholesale or retail sales, services, the manufacture or storage of products, or a public building.

Business DistrictCan area of two or more businesses within 100 yards (300 feet) of each other and within 100 yards along the linear length of any gas pipeline. The district will extend 100 feet past the defined boundaries of the last business in the district.

* * *

Exposed PipelineCa pipeline where the top of the pipe is above the seabed in water less than 15 feet (4.6 meters) deep, as measured from the mean low water.

* * *

Gulf of Mexico and its InletsCthe waters from the mean high water mark of the Gulf of Mexico and its inlets open to the sea (excluding river, tidal marshes, lakes, and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 meters), as measured from the mean low water.

Hazard to NavigationCfor the purpose of this Part, a pipeline where the top of the pipe is less than 12 inches (305 millimeters) below the seabed in water less than 15 feet (4.6 meters), as measured from the mean low water.

* * *

Outer Continental ShelfCall submerged lands lying seaward and outside the area of lands beneath navigable water as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

* * *

Petroleum GasCpropane, propylene, butane, (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 208 psi (1434 kPa) gage at 100EF (38EC).

* * *

Public BuildingCa structure which members of the public may congregate such as schools, hospitals, nursing homes, churches, civic centers, post offices, and federal, state and local government buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (April 1994), LR 21:821 (August 1995), LR 24:1306 (July 1998), LR 27:0000 (September 2001).

Chapter 3. Reporting of Incidents, Safety-Related Conditions, and Annual Reports

§301. Scope

A. - B.2.a. ...

b. any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

3. on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR

11:254 (March 1985), amended LR 18:854 (August 1992), LR 27:0000 (September 2001).

§303. Definitions

* * *

MunicipalityCa city, parish, or any other political subdivision of a state.

OffshoreCbeyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

OperatorCa person who engages in the transportation of gas.

PersonCan any individual, firm, joint venture, partnership, corporation, association, state, municipality, corporation, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

StateCthe state of Louisiana.

Transportation of GasCthe gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in or affecting interstate or foreign commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:0000 (September 2001).

§307. Addressee for Written Reports

A. One copy of each written report, required by Part XIII, for intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 5(a) of the Natural Gas Pipeline Safety Act must be submitted to the Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275. One copy of each written report required by Part XIII, must be submitted to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590. However, no report to the Information Resources Manager is required if the estimated property damage, including cost of gas lost of the operator or others, or both, is less than \$50,000. Safety-related condition reports required by LAC 43:XIII.321 for intrastate pipeline transportation must be submitted concurrently to that state agency, and if that agency acts as an agent of the secretary with respect to interstate transmission facilities, safety-related condition reports for these facilities must be submitted concurrently to that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 20:442 (1994), LR 27:0000 (September 2001).

§321. Reporting Safety-Related Conditions

A. - B.2. ...

3. exists on a pipeline (other than an LNG facility) that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly, except that reports are required or conditions within the right-of-way of an active railroad, paved road, street, or highway; or

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 27:0000 (September 2001).

Chapter 5. Class Locations

§501. Class Locations

A. This Section classifies pipeline locations for purposes of this Part. The following criteria apply to classifications under this Section.

1. A class location unit is an onshore area that extends 220 yards (200 meters) on either side of the centerline of any continuous one-mile (1.6 kilometers) length of pipeline.

A.2. - 3.a.

b. an area where the pipeline lies within 100 yards (91 meters) of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least five days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)

4. A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.

C. The length of Class locations 2, 3, and 4 may be adjusted as follows.

1. A Class 4 location ends 220 yards (200 meters) from the nearest building with four or more stories aboveground.

2. When a cluster of buildings intended for human occupancy requires a Class 2 or 3 location, the class location ends 220 yards (200 meters) from the nearest building in the cluster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (April 1994), LR 24:1307 (July 1998), LR 27:0000 (September 2001).

§502. Outer Continental Shelf Pipelines

A. Operators of transportation pipelines on the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act; 43 U.S.C. 1331) must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic located near the transfer point. If a transfer point is located subsea, then the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to RSPA upon request. For those cases in which adjoining operators have not agreed on a transfer point by September 15, 1998 the Regional Director and the MMS Regional Supervisor will make a joint determination of the transfer point.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§509. Customer Notification

A. - B.4. ...

5. The operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customers' buried piping.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

Chapter 7. Qualification of Pipe

§705. Steel Pipe

A. - B.4. ...

C. New or used steel pipe may be used at a pressure resulting in a hoop stress of less than 6,000 psi (41 MPa) where no close coiling or close bending is to be done, if visual examination indicates that the pipe is in good condition and that it is free of split seams and other defects that would cause leakage. If it is to be welded, steel pipe that has not been manufactured to a listed specification must also pass the weldability tests prescribed in Paragraph II-B of Appendix B to Part XIII.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

Chapter 9. Pipe Design

§905. Design Formula for Steel Pipe

A. The design pressure for steel pipe is determined in accordance with the following formula:

$$P = (2St/D) H F H E H T$$

P = design pressure in pounds per square inch (kPa) gage.

S = yield strength in pounds per square inch (kPa) determined in accordance with §905.

D = nominal outside diameter of the pipe in inches (millimeters).

B. - C.2.a.ii. ...

b. If the pipe is not tensile tested as provided in Subsection B.1 of this Section, 24,000 psi (165 MPa).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998), LR 27:0000 (September 2001).

§907. Nominal Wall Thickness (t) for Steel Pipe

A. ...

B. However, if the pipe is of uniform grade, size, and thickness and there are more than 10 lengths, only 10 percent of the individual lengths, but not less than 10 lengths, need to be measured. The thickness of the lengths that are not measured must be verified by applying a gauge set to the minimum thickness found by the measurement.

The nominal wall thickness to be used in the design formula in §905 is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness used may not be more than 1.14 times the smallest measurement taken on pipe less than 20 inches (508 millimeters) in outside diameter, nor more than 1.11 times the smallest measurement take on pipe 20 inches (508 millimeters) or more in outside diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§911. Longitudinal Joint Factor (E) for Steel Pipe

A. The longitudinal factor to be used in the design formula in §905 is determined in accordance with the following table:

Specification	Pipe Class	Longitudinal Joint Factor (E)
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	.60
ASTM 106	Seamless	1.00
ASTM A 333/A 333 M	Seamless	1.00
	Electric resistance welded	1.00
ASTM A 381	Double submerged arc welded	1.00
ASTM A 671	Electric fusion welded	1.00
ASTM A 62	Electric fusion welded	1.00
ASTM A 691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace butt welded	.60
Other	Pipe four inches (102 millimeters) less	.80
Other	Pipe four in ches (102 millimeters) or less	.60

B. If the type of longitudinal joint cannot be determined, the joint factor to be used must not exceed that designated for "Other."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1922), LR 20:444 (April 1994), LR 27:0000 (September 2001).

§913. Temperature Derating Factor (T) for Steel Pipe

A. The temperature derating factor to be used in the design formula in 905 is determined as follows:

Gas Temp. in degrees Fahrenheit (Celsius)	Temp. Derating Factor (T)
250 °F or less (121 °C)	1.000
300 °F (149 °C)	0.967
350 °F (177 °C)	0.933
400 °F (204 °C)	0.900
450 °F (232 °C)	0.867

B. For intermediate gas temperatures, the derating factor is determined by interpolation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:444 (April 1994), LR 27:0000 (September 2001).

§917. Design of Plastic Pipe

A. Subject to the limitations of §919, the design pressure for plastic pipe is determined in accordance with either of the following formulas:

$$P = 2S \frac{t}{D} H 0.32$$

$$P = \frac{2S}{SDR - 1} H 0.32$$

where:

P = Design pressure, gauge, kPa (psig).

S = For thermoplastic pipe, the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to 73EF (23EC), 100EF (38EC), 120EF (49EC), or 140EF (60EC); for reinforced thermosetting plastic pipe, 11,000 psi (75,842 kPa).

t = Specified wall thickness, mm (in).

D = Specified outside diameter, mm (in).

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:0000 (September 2001).

§919. Design Limitations for Plastic Pipe

A. -A.2. ...

B. Plastic pipe may not be used where operating temperatures of the pipe will be:

1. below -20 EF (-29EC), or -40EF (-40EC) if all pipe and pipeline components whose operating temperature will be below -29EC (-20EF) have a temperature rating by the manufacturer consistent with that operating temperature; or
2. above the following applicable temperatures:

- a. for thermoplastic pipe, the temperature at which the long-term hydrostatic strength used in the design formula under §917 is determined at 73EF (23EC), it may be used at temperatures up to 100EF (38EC).

b. for reinforced thermosetting plastic pipe, 150EF (66EC).

C. The wall thickness for thermoplastic pipe may not be less than 0.062 inches (1.57 millimeters).

D. The wall thickness for reinforced thermosetting plastic pipe may not be less than that listed in the following table:

Nominal size in inches (millimeters).	Minimum wall thickness in ches (millimeters).
2 (51).....	0.060 (1.52)
3 (76).....	0.060 (1.52)
4 (102).....	0.070 (1.78)
6 (152).....	0.100 (2.54)

§921. Design of Cooper Pipe

A. Copper pipe used in mains must have a minimum wall thickness of 0.065 inches (1.65 millimeters) and must be hard drawn.

B. Copper pipe used in service lines must have wall thickness not less than indicated in the following table:

Standard Size Inch (millimeter)	Nominal O.D.inch (millimeter)	Wall Thickness Inch (millimeter)
		Nominal Tolerance
2 (13)	.625 (16)	.040 (1.06) .0035 (.0889)
e (16)	.750 (19)	.042 (1.07) .0035 (.0889)
: (19)	.875 (22)	.045 (1.14) .004 (.102)
1 (25)	1.125 (29)	.050 (1.27) .004 (.102)
13 (32)	1.375 (35)	.055 (1.40) .0045 (.1143)
12 (38)	1.625 (41)	.060 (1.52) .0045 (.1143)

C. Copper pipe used in mains and service lines may not be used at pressures in excess of 100 p.s.i. (689 kPa) gage.

D. Copper pipe that does not have an internal corrosion resistant lining may not be used to carry gas that has an average hydrogen sulfide content of more than 0.3 grains/100 ft; (6.9/m³) under standard conditions. Standard conditions refers to 60EF and 14.7 psia (15.6EC and one atmosphere) of gas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 27:0000 (September 2001).

Chapter 11. Pipeline Design Requirements

§1107. Valves

A. - C. ...

D. No valve having shell components made of ductile iron may be used at pressures exceeding 80 percent of the pressure ratings for comparable steel valves at their temperature. However, a valve having shell components made of ductile iron may be used at pressures up to 80 percent of the pressure ratings for comparable steel valves at their listed temperature, if:

1. the temperature-adjusted service pressure does not exceed 1,000 p.s.i.g. (7 Mpa) gage; and

D.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR

9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 27:0000 (September 2001).

§1112. Passage of Internal Inspection Devices

A. - B.6. ...

7. offshore pipelines, other than transmission lines 10 inches (254 millimeters) or greater in nominal diameter, that transport gas to onshore facilities; and

A.8. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated with the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:821 (August 1995), amended LR 27:0000 (September 2001).

§1113. Tapping

A. - C.1. ...

2. a 13-inch (32 millimeters) tap may be made in a 4-inch (102 millimeters) cast iron or ductile iron pipe, without reinforcement. However, in areas where climate, soil, and service conditions may create unusual external stresses on cast iron pipe, unreinforced taps may be used only on 6-inch (152 millimeters) or larger pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1115. Components Fabricated by Welding

A. - C. ...

D. Except for flat closures designed in accordance with Section VIII of the ASME Boiler and Pressure Code, flat closures and fish tails may not be used on pipe that either operates at 100 p.s.i. (689 kPa) gage, or more, or is more than 3 inches (76 millimeters) nominal diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:444 (April 1994), LR 27:0000 (September 2001).

§1125. Compressor Stations: Design and Construction

A. ...

B. Building Construction. Each building on a compressor station site must be made of noncombustible materials if it contains either:

1. pipe more than 2 inches (51 millimeters) in diameter that is carrying gas under pressure; or

B.2. - C. ...

D. Fenced Areas. Each fence around a compressor station must have at least two gates located so as to provide a convenient opportunity for escape to a place of safety, or have other facilities affording a similarly convenient exit from the area. Each gate located within 200 feet (61 meters) of any compressor plant building must open outward and, when occupied, must be openable from the inside without a key.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 27:0000 (September 2001).

§1129. Compressor Stations: Emergency Shutdown

A. Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:

A.1. - 4.b. ...

c. not more than 500 feet (153 meters) from the limits of the station.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1137. Pipe-Type and Bottle-Type Holders

A. ...

B. Each pipe-type or bottle-type holder must have minimum clearance from other holders in accordance with the following formula:

$C = (DHPHF/48.33) (C = (3DHPHF/1,000))$ in which:

C = minimum clearance between pipe containers or bottles in inches (millimeters).

D = outside diameter of pipe containers or bottles in inches (millimeters).

P = maximum allowable operating pressure, p.s.i. (kPa) gage.

F = design factor as set forth in §909 of Part XIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1139. Additional Provisions for Bottle-Type Holders

A. Each bottle-type holder must be:

1. located on a site entirely surrounded by fencing that prevents access by unauthorized persons and with minimum clearance from the fence as follows:

Maximum Allowable Operating Pressure	Minimum Clearance feet (meters)
Less than 1,000 p.s.i. (7 MPa) gage.....	25 (7.6)
1,000 p.s.i. (7 MPa) gage or more.....	100 (31)

A.2. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:856 (August 1992), LR 20:445 (April 1994), LR 27:0000 (September 2001).

§1141. Transmission Line Valves

A. Each transmission line, other than offshore segments, must have sectionalizing block valves spaced as follow, unless in a particular case the administrator finds that alternative spacing would provide an equivalent level of safety:

1. each point on the pipeline in a Class 4 location must be within 2.2 miles (4 kilometers) of a valve;

2. each point on the pipeline in a Class 3 location must be within 4 miles (6.4 kilometers) of a valve;

3. each point on the pipeline in a Class 2 location must be within 7.2 miles (12 kilometers) of a valve;

4. each point on the pipeline in a Class 1 location must be within 10 miles (16 kilometers) of a valve.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998), LR 27:0000 (September 2001).

§1145. Vaults: Structural Design Requirements

A. - B. ...

C. Each pipe entering, or within, a regulator vault or pit must be steel for sizes 10 inches (254 millimeters), and less, except that control and gage piping may be copper. Where pipe extends through the opening and to aver strains in the pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1149. Vaults: Sealing, Venting, and Ventilation

A. Each underground vault or closed top pit containing either a pressure regulating or reducing station, or a pressure limiting or relieving station, must be sealed, vented or ventilated, as follows:

1. when the internal volume exceeds 200 cubic feet (5.7 cubic meters):

a. the vault or pit must be ventilated with two ducts, each having at least the ventilating effect of a pipe 4 inches (102 millimeters) in diameter;

b. the ventilation must be enough to minimize the formulation of combustible atmosphere in the vault or pit; and

c. the ducts must be high enough above grade to disperse any gas -air mixtures that might be discharged;

2. when the internal volume is more than 75 cubic feet (2.1 cubic meters) but less than 200 cubic feet (5.7 cubic meters):

a. if the vault or pit is sealed, each opening must have a tight fitting cover without open holes through which an explosive mixture might be ignited, and there must be a means for testing the internal atmosphere before removing the cover;

b. if the vault or pit is vented, there must be a means of preventing external sources of ignition from reaching the vault atmosphere; or

c. if the vault or pit is ventilated, Paragraphs 1 and 3 of this Subsection applies;

A.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1159. Control of the Pressure of Gas Delivered from the High-Pressure Distribution Systems

A. If the maximum actual operating pressure of the distribution system is under 60 p.s.i. (414 kPa) gage and a service regulator having the following characteristics is used, no other pressure limiting device is required:

A.1. - 3. ...

4. pipe connections to the regulator not exceeding two inches (51 millimeters) in diameter;

A.5. - 6. ...

B. If the maximum actual operating pressure of the distribution system is 60 p.s.i. (414 kPa) gage or less, and a service regulator that does not have all of the characteristics listed in Subsection A of this Section is used, or if the gas contains materials that seriously interfere with the operation of service regulators, there must be suitable protective devices to prevent unsafe overpressuring of the customers' appliances if the service regulator fails.

C. If the maximum actual operating pressure of the distribution system exceeds 60 p.s.i. (414 kPa) gage, one of the following methods must be used to regulate and limit, to the maximum safe value, the pressure of gas delivered to the customer:

1. a service regulator having the characteristics listed in §1159.A, and another regulator located upstream from the service regulator. The upstream regulator may not be set to maintain a pressure higher than 60 p.s.i. (414 kPa) gage. A device must be installed between the upstream regulator and the service regulator to limit the pressure of the inlet of the service regulator to 60 p.s.i. (414 kPa) gage or less in case the upstream regulator fails to function properly. This device may be either a relief valve or an automatic shutoff that shuts if the pressure on the inlet of the service regulator exceeds the set pressure (60 p.s.i. (414 kPa) gage or less), and remains closed until manually reset;

C.2. ...

3. a service regulator with a relief valve vented to the outside atmosphere, with the relief valve set to open so that the pressure of gas going to the customer does not exceed a maximum safe value. The relief valve may either be built into the service regulator or it may be a separate unit installed downstream from the service regulator. This combination may be used alone only in those cases where the inlet pressure on the service regulator does not exceed the manufacturer's safe working pressure rating of the service regulator, and may not be used where the inlet pressure on the service regulator exceeds 125 p.s.i. (862 kPa) gage. For higher inlet pressure, the methods in Paragraphs 1 or 2 of this Subsection must be used;

C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:856 (August 1992), LR 27:0000 (September 2001).

§1163. Required Capacity of Pressure Relieving and Limiting Station

A. - A.1. ...

2. in pipelines other than a low pressure distribution system:

a. if the maximum allowable operating pressure is 60 p.s.i. (414 kPa) gage or more, the pressure may not exceed the maximum allowable operating pressure plus 10 percent, or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower;

b. if the maximum allowable operating pressure is 12 p.s.i. (83 kPa) gage or more, but less than 60 p.s.i. (414 kPa) gage, the pressure may not exceed the maximum allowable operating pressure plus 6 p.s.i. (41 kPa) gage; or

c. if the maximum allowable operating pressure is less than 12 p.s.i. (83 kPa) gage, the pressure may not exceed the maximum allowable operating pressure plus 50 percent.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1165. Instrument, Control, and Sampling Pipe and Components

A. - B.2. ...

3. brass or cooper material may not be used for metal temperatures greater than 400EF (204EC);

B.4. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998), LR 27:0000 (September 2001).

Chapter 13. Welding Requirements

§1307. Limitations on Welders

A. - D.2.a. ...

b. for welders who work only on service lines 2 inches (51 millimeters) or smaller in diameter, two sample welds tested and found acceptable in accordance with the test in Section III of Appendix C of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998), LR 27:0000 (September 2001).

§1315. Inspection and Test of Welds

A. - B. ...

1. the pipe has a nominal diameter of less than six inches (152 millimeters); or

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998), LR 27:0000 (September 2001).

§1511. Plastic Pipe; Qualifying Joining Procedures

A. - B.2. ...

3. the speed of testing is 0.20 in. (5.0 mm) per minute, plus or minus 25 percent;

4. pipe specimens less than 4 inches (102 mm) in diameter are qualified if the pipe yields to an elongation of no less than 25 percent or failure initiates outside the joint area;

5. pipe specimens 4 inches (102 mm) and larger in diameter shall be pulled until the pipe is subjected to a tensile stress equal to or greater than the maximum thermal stress that would be produced by a temperature change of 100EF (38EC) or until the pipe is pulled from the fitting. If the pipe pulls from the fitting, the lowest value of the five test results or the manufacturer's rating, whichever is lower must be used in the design calculations for stress;

B.6. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998), LR 27:0000 (September 2001).

Chapter 17. Transmission Line Construction

§1709. Repair of Steel Pipe

A. - A.2. ...

B. Each of the following dents must be removed from steel pipe to be operated at a pressure that produces a hoop stress of 20 percent, or more, of SMYS, unless the dent is repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe:

B.1. - 3. ...

a. more than one-quarter inch (6.4 millimeters) in pipe 12 3/4 inches (324 millimeters) or less in outer diameter; or

b. more than 2 percent of the nominal pipe diameter in pipe over 12 3/4 inches (324 millimeters) in outer diameter.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:857 (August 1992), LR 27:0000 (September 2001).

§1713. Bends and Elbows

A. - A.3.a. ...

b. the pipe is 12 inches (305 millimeters) or less in outside diameter or has a diameter to wall thickness ratio less than 70.

B. ...

C. Wrought-steel welding elbows and transverse segments of these elbows may not be used for changes in direction on steel pipe that is 2 inches (51 millimeters) or more in diameter unless the arc length, as measured along the crotch, is at least 1 inch (25 millimeters).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1715. Wrinkle Bends in Steel Pipe

A. - B.2. ...

3. on pipe 16 inches (406 millimeters) or larger in diameter, the bend may not have a deflection of more than 1 1/2E for each wrinkle.

A.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1719. Installation of Pipe in a Ditch

A. - B. ...

C. All offshore pipe in water at least 12 feet (3.7 meters) deep but not more than 200 feet (61 meters) deep, as measured from the mean low tide, except pipe in the Gulf of Mexico and its inlets under 15 feet (4.6 meters) of water, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. Pipe in the Gulf of Mexico and its inlets under 15 feet (4.6 meters) of water must be installed so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:0000 (September 2001).

§1721. Installation of Plastic Pipe

A. - C. ...

D. Thermoplastic pipe that is not encased must have a minimum wall thickness of 0.090 inches (2.29 millimeters), except that pipe with an outside diameter of 0.875 inches (22.3 millimeters) or less may have a minimum wall thickness of 0.062 inches (1.58 millimeters).

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1310 (July 1998), LR 27:0000 (September 2001).

§1725. Underground Clearance

A. Each transmission line must be installed with at least 12 inches (305 millimeters) of clearance from any other underground structure not associated with the transmission line. If this clearance cannot be attained, the transmission line must be protected from damage that might result from the proximity of the other structure.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 27:0000 (September 2001).

§1727. Cover

A. Cover as provided in §1727.C, E, F and G, each buried transmission line must be installed with a minimum cover as follows:

Location	Normal Soil	Consolidated Rock
Inches (Millimeters).	30 (762)	18 (457)
Class 1 locations.....	36 (914)	24 (610)
Class 2,3 and 4 locations.....	36 (914)	24 (610)
Drainage ditches of public roads and railroad crossings.....		

B. Except as provided in Subsections C and D of this Section, each buried main must be installed with at least 24 inches (610 millimeters) of cover.

C. ...

D. A main may be installed with less than 24 inches (610 millimeters) of cover if the law of the state or municipality:

1. establishes a minimum cover of less than 24 inches (610 millimeters);

D.2. - 3. ...

E. Except as provided in §1727.C, all pipe installed in a navigable river, stream, or harbor must be installed with a minimum cover of 48 inches (1219 millimeters) in soil or 24 inches (610 millimeters) in consolidated rock between the top of the pipe and the natural bottom.

F. All pipe installed offshore, except in the Gulf of Mexico and its inlets, under water not more than 200 feet (60 meters) deep, as measured from the mean low tide, must be installed as follows:

1. except as provided in §1727.C, pipe under water less than 12 feet (3.66 meters) deep, must be installed with a minimum cover of 36 inches (914 millimeters) in soil or 18 inches (457 millimeters) in consolidated rock between the top of the pipe and the natural bottom.

2. pipe under water at least 12 feet (3.66 meters) deep must be installed so that the top of the pipe is below the natural bottom, unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:0000 (September 2001).

Chapter 19. Meters, Regulators, Service Lines and Valve Requirements

§1903. Customer Meters and Regulators: Location

A. - B. ...

C. Each meter installed within a building must be located in a ventilated place and not less than three feet (914 millimeters) from any source of ignition or any source of heat which might damage the meter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1909. Customer Meter Installations: Operating Pressure

A. ...

B. Each newly installed meter manufactured after November 12, 1970, must have been tested to a minimum of 10 p.s.i. (69 kPa) gage.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1911. Service Lines: Installation

A. Depth. Each buried service line must be installed with at least 12 inches (305 millimeters) of cover in private property and at least 18 inches (457 millimeters) of cover in streets and roads. However, where an underground structure prevents installation at those depths, the service line must be able to withstand any anticipated external load.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1921. Service Lines: Steel

A. Each steel service line to be operated at less than 100 p.s.i. (689 kPa) gage must be constructed of pipe designed for a minimum of 100 p.s.i. (689 kPa) gage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1923. Service Lines: Cast Iron and Ductile Iron

A. Cast or ductile iron pipe less than 6 inches (152 millimeters) in diameter may not be installed for service lines.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§1931. Service Lines: Excess Flow Valve Performance Standards

A. Excess flow valves to be used on single residence service lines that operate continuously throughout the year at a pressure not less than 10 p.s.i. (69 kPa) gage must be manufactured and tested by the manufacturer according to an industry specification, or the manufacturers written specification, to ensure that each valve will:

1. function properly up to the maximum operating pressure at which the valve is rated;

2. function properly at all temperatures reasonably expected in the operating environment of the service line;

3. at 10 p.s.i. (69 kPa) gage;
a. close at, or not more than 50 percent above, the rated closure flow rate specified by the manufacturer; and
b. upon closure, reduce gas flow;

i. for an excess flow valve designed to allow pressure to equalize across the valve, to no more than 5 percent of the manufacturers specified closure flow rate, up to a maximum of 20 cubic feet per hour (0.57 cubic meters per hour); or

ii. for an excess flow valve designed to prevent equalization of pressure across the valve, to no more than 0.4 cubic feet per hour (.01 cubic meters per hour); and

A.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:1311 (July 1998), amended LR 27:0000 (September 2001).

§1933. Excess Flow Valve Customer Notification

A. Definitions. As used in this section:

Costs Associated with Installation—the costs directly connected with installing an excess flow valve; for example, costs of parts, labor, inventory, and procurement. It does not include maintenance and replacement costs until such costs are incurred.

Replaced Service Line—a natural gas service line where the fitting that connects the service line to the main is replaced or the piping connected to this fitting is replaced.

Service Line Customer—the person who pays the gas bill, or where service has not yet been established, the person requesting service.

B. Which Customers Must Receive Notification. Notification is required on each newly installed service line or replaced service line that operates continuously throughout the year at a pressure not less than 68.0 kPa (10 psig) and that serves a single residence. On these lines an operator of a natural gas distribution system must notify the service line customer once in writing.

C. What to Put in the Written Notice

1. An explanation for the customer that an excess flow valve meeting the performance standards prescribed under §1931 is available for the operator to install if the customer bears the costs associated with installation;

2. An explanation for the customer of the potential safety benefits that may be derived from installing an excess flow valve. The explanation must include that an excess flow valve is designed to shut off flow of natural gas automatically if the service line breaks;

3. A description of installation, maintenance, and replacement costs. The notice must explain that if the customer requests the operator to install an EFV, the customer bears all costs associated with installation, and what those costs are. The notice must alert the customer that the costs for maintaining and replacing an EFV may later be incurred, and what those costs will be, to the extent known.

D. When Notification and Installation Must Be Made

1. After February 3, 1999 an operator must notify each service line customer set forth in §1933.B:

a. on new service lines when the customer applies for service;

b. on replaced service lines when the operator determines the service line will be replaced.

2. If a service line customer requests installation an operator must install the EFG at a mutually agreeable date.

E. What Records Are Required

1. An operator must make the following records available for inspection by the Administrator or a State agency participating under 49 U.S.C. 60105 or 60106:

a. a copy of the notice currently in use; and

b. evidence that notice has been sent to the service line customers set forth in §1933.B, within the previous three years.

F. When Notification Is Not Required. The notification requirements do not apply if the operator can demonstrate:

1. that the operator will voluntarily install an excess flow valve or that the state or local jurisdiction requires installation;

2. that excess flow valves meeting the performance standards in §1931 are not available to the operator;

3. that the operator has prior experience with contaminants in the gas stream that could interfere with the operation of an excess flow valve, cause loss of service to a residence, or interfere with the operation of an excess flow valve, cause loss of service to a residence, or interfere with necessary operation or maintenance activities, such as blowing liquids from the line.

4. that an emergency or short time notice replacement situation made it impractical for the operator to notify a service line customer before replacing a service line. Examples of these situations would be where an operator has to replace a service line quickly because of:

a. third party excavation damage;

b. grade 1 leaks as defined in the Appendix G §192B11 of the Gas Piping Technology Committee guide for gas transmission and distribution systems;

c. a short notice service line relocation request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

Chapter 21. Corrosion Requirements

§2107. External Corrosion Control: Buried or Submerged Pipelines Installed After July 31, 1971

A. - A.2. ...

B. An operator need not comply with Subsection A of this Section, if the operator can demonstrate by tests, investigation, or experience in the area of application, including as a minimum, soil resistivity measurements and tests for corrosion accelerating bacteria, that a corrosive environment does not exist. However, within six months after an installation made pursuant to the preceding sentence, the operator shall conduct tests, including pipe-to-soil potential measurements with respect to either a continuous reference electrode or an electrode using close spacing, not to exceed 20 feet (6 meters), and soil resistivity measurements at potential profile peak locations to adequately evaluate the potential profile along the entire pipeline. If the tests made indicate that a corrosive condition exists, the pipeline must be cathodically protected in accordance with Subsection A.2 of this Section.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998), LR 27:0000 (September 2001).

§2111. External Corrosion Control: Examination of Buried Pipeline When Exposed

A. Whenever an operator has knowledge that any portion of a buried pipeline is exposed, the exposed portion must be examined for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If external corrosion requiring remedial action under '§2135 through 2141 is found, the operator shall investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether

additional corrosion requiring remedial action exists in the vicinity of the exposed portion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2117. External Corrosion Control: Monitoring

A. Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §2115. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended 10:503 (July 1984), LR 27:0000 (September 2001).

§2127. Internal Corrosion Control: General

A. - B. ...

C. Gas containing more than 0.25 grain of hydrogen sulfide per 100 cubic feet (5.8 milligrams/m³) at standard conditions (4 parts per million) may not be stored in pipe-type or bottle-type holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1311 (July 1998), LR 27:0000 (September 2001).

§2137. Remedial Measures: Transmission Lines

A. General Corrosion. Each segment of transmission line with general corrosion and with a remaining and with a remaining wall thickness less than that required for the MAOP of the pipeline must be replaced or the operating pressure reduced commensurate with the strength of the pipe based on actual remaining wall thickness. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this Subsection.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998), LR 27:0000 (September 2001).

§2139. Remedial Measures: Distribution Lines other than Cast Iron or Ductile Iron Lines

A. General Corrosion. Except for cast iron or ductile iron pipe, each segment or generally corroded distribution line pipe with a remaining wall thickness less than that required for the MAOP of the pipeline, or a remaining wall thickness less than 30 percent of the nominal wall thickness, must be replaced. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this Subsection.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

Chapter 23. Test Requirements

§2305. Strength Test Requirements for Steel Pipeline to Operate at a Hoop Stress of 30 Percent or More of SMYS

A. Except for service lines, each segment of a steel pipeline that is to operate at a hoop stress of 30 percent or more of SYMS must be strength tested in accordance with this Section to substantiate the proposed maximum allowable operating pressure. In addition, in a Class 1 or Class 2 location, if there is a building intended for human occupancy within 300 feet (91 meters) of a pipeline, a hydrostatic test must be conducted to a test pressure of at least 125 percent of maximum operating pressure on that segment of the pipeline within 300 feet (91 meters) of such a building, but in no event may the test section be less than 600 feet (183 meters) unless the length of the newly installed or relocated pipe is less than 600 feet (183 meters). However, if the buildings are evacuated while the hoop stress exceeds 50 percent of SMYS, air or inert gas may be used as the test medium.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2307. Test Requirements for Pipelines to Operate at a Hoop Stress Less than 30 Percent of SMYS and at or Above 100 p.s.i. (689 kPa) Gage

A. Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated at a hoop stress less than 30 percent of SMYS and at or above 100 p.s.i. (689 kPa) gage must be tested in accordance with the following:

A.1. - 2. ...

a. a leak test must be made at a pressure between 100 p.s.i. (689 kPa) gage and the pressure required to produce a hoop stress of 20 percent of SMYS; or

A.2.b. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2309. Test Requirements for Pipelines to Operate below 100 p.s.i. (689 kPa) gage

A. Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated below 100 p.s.i. (689 kPa) gage must be leak tested in accordance with the following:

1. the test procedure used must ensure discovery of all potentially hazardous leaks in the segment being tested;

2. each main that is to be operated at less than one p.s.i. (6.9 kPa) gage must be tested to at least 10 p.s.i. (69 kPa) gage and each main to be operated at or above one p.s.i. (6.9 kPa) gage must be tested to at least 90 p.s.i. (621 kPa) gage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2311. Test Requirements for Service Lines

A. ...

B. Each segment of a service line (other than plastic) intended to be operated at a pressure of at least one p.s.i. (6.9 kPa) gage but not more than 40 p.s.i. (276 kPa) gage must be given a leak test at a pressure of not less than 50 p.s.i. (345 kPa) gage.

C. Each segment of a service line (other than plastic) intended to be operated at pressures of more than 40 p.s.i. (276 kPa) gage must be tested to at least 90 p.s.i. (621 kPa) gage, except that each segment of the steel service line stressed to 20 percent or more of SMYS must be tested in accordance with §2307 of Part XIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2313. Test Requirements for Plastic Pipelines

A. - B. ...

C. The test pressure must be at least 150 percent of the maximum operating pressure or 50 p.s.i. (345 kPa) gage, whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under §917, at a temperature not less than the pipe temperature during the test.

D. During the test, the temperature of thermoplastic material may not be more than 100EF (38EC), or the temperature at which the materials long-term hydrostatic strength has been determined under the listed specification, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998), LR 27:0000 (September 2001).

Chapter 25. Uprating

§2507. Uprating: Steel Pipelines to a Pressure that will Produce a Hoop Stress less than 30 Percent of SMYS: Plastic, Cast Iron, and Ductile Iron Pipelines

A. - B. ...

C. After complying with Subsection B of this Section, the increase in maximum allowable operating pressure must be made in increments that are equal to 10 p.s.i. (69 kPa) gage or 25 percent of the total pressure increase, whichever produces the fewer number of increments. Whenever the requirements of Subsection B.6 of this Section apply, there must be at least two approximately equal incremental increases.

D. - D.2. ...

3. unless the actual nominal wall thickness is known, the operator shall determine the wall thickness by cutting and measuring coupons from at least three separate pipe lengths. The coupons must be cut from pipe lengths in area where the cover depth is most likely to be the greatest. The average of all measurements taken must be increased by the allowance indicated in the following table:

Pipe Size (inches) (millimeters)	Allowance (inches) (millimeters)		Ductile iron pipe
	Cast iron pipe		
	Pit cast pipe	Centrifugally cast pipe	
3 to 8 (76 to 203)	0.075 (1.91)	0.065 (1.65)	0.065 (1.65)
10 to 12 (254 to 305)	0.08 (2.03)	0.07 (1.78)	0.07 (1.78)
14 to 24 (356 to 610)	0.08 (2.03)	0.08 (2.03)	0.075 (2.03)
30 to 42 (762 to 1067)	0.09 (2.29)	0.09 (2.29)	0.075 (1.91)
48 (1219)	0.09 (2.29)	0.09 (2.29)	0.08 (2.03)
54 to 60 (1372 to 1524)	0.09 (2.29)		

4. for cast iron pipe, unless the pipe manufacturing process is known, the operator shall assume that the pipe is pit cast pipe with a bursting tensile strength of 11,000 p.s.i. (76 Mpa) gage and a modulus of rupture of 31,000 p.s.i. (214 Mpa) gage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

Chapter 27. General Operating Requirements

§2712. Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and its Inlets

A. - B.1. ...

2. promptly, but not later than seven days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and

at intervals of not over 500 yards (457 meters) long, except that a pipeline segment less than 200 yards (183 meters) long need only be marked at the center; and

3. within six months after discovery, or not later than November 1 of the following year if the six-month period is later than November 1 of the year the discovery is made, place the pipeline so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:858 (August 1992), amended LR 27:0000 (September 2001).

§2715. Damage Prevention Program

A. Except as provided in D and E of this section, each operator of a buried pipeline shall carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means, and other earth moving operations.

B. An operator may comply with any of the requirements of §2715.C through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section. However, an operator must perform the duties of §2715.C.3 through participation in a one-call system, if that one-call system is a qualified one-call system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of this section, a one-call system is considered a "qualified one-call system" if it meets the requirements of §2715.B.1 or B.2.

1. The state has adopted a one-call damage prevention program under §198.37 of CFR 49, or

2. The one-call system:
- a. is operated in accordance with §198.39 of CFR 49;
 - b. provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and
 - c. assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call system's coverage of the operator's pipeline.

C. The damage prevention program required by §2715.A must, at a minimum:

1. Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located.

2. Provides for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in §2715.C.1 of the following as often as needed to make them aware of the damage prevention program:

- a. The program's existence and purpose; and

b. How to learn the location of underground pipelines before excavation activities are begun.

3. Provide a means of receiving and recording notification of planned excavation activities.

4. If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings.

5. Provide for temporary marking of buried pipelines in the area of excavation activity before the activity begins, except in emergency situations.

6. Provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

- a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and

- b. in the case of blasting, any inspection must include leakage surveys.

D. A damage prevention program under this section is not required for the following pipelines:

- 1. pipelines located offshore;
- 2. pipelines, other than those located offshore, in Class 1 or 2 locations until September 20, 1995;
- 3. pipelines to which access is physically controlled by the operator.

E. Pipelines operated by persons other than municipalities (including operators of master meters) whose primary activity does not include the transportation of gas need not comply with the following:

- 1. the requirements of §2715.A that the damage prevention program be written; and
- 2. the requirements of §2715.C.1 and C.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21:822 (August 1995), LR 27:0000 (September 2001).

§2721. Maximum Allowable Operating Pressure: Steel or Plastic Pipelines

A. -A.1.a. ...

- b. if the pipe is 12 inches (324 mm) or less in outside diameter and is not tested to yield under this Subsection, 200 p.s.i. (1379 kPa) gage.

2. The pressure obtained by dividing the pressure to which the segment was tested after construction as follows:

- a. for plastic pipe in all locations, the test pressure is divided by a factor of 1.5.

- b. for steel pipe operated at 100 p.s.i. (689 kPa) gage or more, the test pressure is divided by a factor determined in accordance with the following table:

Class location	Factors ¹ , segment		
	Installed before (Nov. 12, 1970)	Installed after (Nov. 11, 1970)	Covered under §192.14
1	1.1	1.1	1.25
2	1.25	1.25	1.25
3	1.4	1.5	1.5
4	1.4	1.5	1.5

¹ For offshore segments installed, uprated or converted after July 31, 1977, that are not located on an offshore platform, the factor is 1.25. For segments installed, uprated or converted after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

A.3. - D.1. ...

2. 60 p.s.i. (414 kPa) gage, for a segment of a distribution system otherwise designated to operate at over 60 p.s.i. (414 kPa) gage, unless the service lines in the segment are equipped with service regulators or other pressure limiting devices in series that meet the requirements of §1159.C;

3. 25 p.s.i.(172 kPa) gage in segments of cast iron pipe in which there are unreinforced bell and spigot joints;

D.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998), LR 27:0000 (September 2001).

§2725. Odorization of Gas

A. - H.2.a. ...

b. the quantity of each kind of malodorant agent used during each quarter. Reports on usage of odorant shall be made annually for Farm Taps; and

c. the quantity of gas odorized by each malodorant agent used during each quarter. Farm Taps are exempt from this requirement.

H.3. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

Chapter 29. Maintenance Requirements

§2905. Transmission Lines: Patrolling

A. ...

B. The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following:

Class location of line	Maximum interval between patrols	
	At highway and railroad crossings	At all other places
1, 2	7 1/2 months; but at least twice each calendar year	15 months; but at least once each calendar year
3	4 1/2 months; but at least four times each calendar year	7 1/2 months; but at least twice each calendar year
4	4 1/2 months; but at least four times each calendar year	4 1/2 months; but at least four times each calendar year

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR Louisiana Register Vol. 27, No. 09 September 20, 2001

9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), LR 24:1313 (July 1998), LR 27:0000 (September 2001).

§2909. Line Markers for Mains and Transmission Lines

A. - C. ...

D. Marker Warning. The following must be written legibly on a background of sharply contrasting color on each line marker:

1. the word AWarning,@ ACaution,@ or ADanger@ followed by the words AGas (or name of gas transported) Pipeline@ all of which, except for markers in heavily developed urban areas, must be in letters at least one inch (25 millimeters) high with one-quarter inch (6.4 millimeters) stroke;

D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1313 (July 1998), LR 27:0000 (September 2001).

§2913. Transmission Lines: General Requirements for Repair Procedures

A. - A.2. ...

B. Except as provided in §2919.B.3, no operator may use a welded patch as a means of repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2915. Transmission Lines: Permanent Field Repair of Imperfections and Damages

A. Each imperfection or damage that impairs the serviceability of pipe in a steel transmission line operating at or above 40 percent of SMYS must be:

1. removed by cutting out and replacing a cylindrical piece of pipe; or
2. repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

B. Operating pressure must be at a safe level during repair operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2917. Transmission Lines: Permanent Field Repair of Welds

A. Each weld that is unacceptable under §1315 must be repaired as follows:

1. If it is feasible to take the segment of transmission line out of service, the weld must be repaired in accordance with the applicable requirements of §1319;

2. A weld may be repaired in accordance with §1319 while the segment of transmission line is in service if:

- a. a weld is not leaking;
- b. the pressure in the segment is reduced so that it does not produce a stress that is more than 20 percent of the SMYS of the pipe;

c. grinding of the defective area can be limited so that at least C-inch (3.2 millimeters) thickness in the pipe weld remains.

3. A defective weld which cannot be repaired in accordance with Paragraphs 1 and 2 of this section must be repaired by installing a full encirclement welded split sleeve of appropriate design.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2919. Transmission Lines: Permanent Field Repair of Leaks

A. Each permanent field repair of a leak on a transmission line must be made by:

1. removing the leak by cutting out and replacing a cylindrical piece of pipe; or
2. repairing the leak by one of the following methods;
 - a. a full encirclement welded split sleeve of appropriate design, unless the transmission line is joined by mechanical couplings and operates at less than 40 percent of SMYS;
 - b. if the leak is due to a corrosion pit, install a properly designed bolt-on-leak clamp;
 - c. if the leak is due to a corrosion pit on the pipe of not more than 40,000 p.s.i. (276 Mpa) gage SMYS, fillet weld over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half of the diameter of the pipe in size.
 - d. if the leak is on a submerged offshore pipeline in inland navigable water, mechanically apply a full encirclement split sleeve of appropriate design;
 - e. apply a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2927. Abandonment or Deactivation of Facilities

A. - F. ...

G. For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility.

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the NPMS Standards for Pipeline and Liquefied Natural Gas Operator Submissions. To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at 703-317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operators knowledge, all

of the reasonably available information requested was provided and, to the best of the operators knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or e-mail to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; email, roger.little@rspa.dot.gov. The information on the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed by before April 10, 2001. Operators may submit reports by mail, fax or e-mail to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; e-mail, roger.little@rspa.dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21:824 (August 1995), LR 27:0000 (September 2001).

§2936. Compressor Stations: Gas Detection

A. - A.1. ...

2. located in an unattended field compressor station of 1,000 horsepower (746 kW) or less.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:824 (August 1995), amended LR 27:0000 (September 2001).

§2947. Vault Maintenance

A. Each vault housing pressure regulating and pressure limiting equipment, and having a volumetric internal content of 200 cubic feet (5.66 cubic meters) or more, must be inspected at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is in good physical condition and adequately ventilated.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

§2951. Caulked Bell and Spigot Joint

A. Each cast-iron caulked bell and spigot joint that is subject to pressures of 25 p.s.i. (172 kPa) gage or more must be sealed with:

A.1. - A.2.c. ...

B. Each cast iron caulked bell and spigot joint that is subject to pressures of less than 25 p.s.i. (172 kPa) gage and is exposed for any reason, must be sealed by a means other than caulking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:0000 (September 2001).

Chapter 30. Operator Qualification

§3001. Scope

A. This chapter prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

B. For the purpose of this chapter, a covered task is an activity, identified by the operator, that:

1. is performed on a pipeline facility;
2. is an operations or maintenance task;
3. is performed as a requirement of this chapter; and
4. affects the operation or integrity of the pipeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§3003. Definitions

Abnormal Operating Condition Ca condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

1. indicate a condition exceeding design limits; or
2. result in a hazard(s) to persons, property, or the environment.

Evaluation Ca process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

1. written examination;
2. oral examination;
3. work performance history review;
4. observation during;
5. performance on the job;
6. on the job training;
7. simulations;
8. other forms of assessment.

Qualified C that an individual has been evaluated and can:

1. perform assigned covered tasks; and
2. recognize and react to abnormal operating conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§3005. Qualification Program

A. Each operator shall have and follow a written qualification program. The program shall include provisions to :

1. identify covered tasks;
2. endure through evaluation that individuals performing covered tasks are qualified;
3. allow individuals that are not qualified pursuant to this chapter to perform a covered task if directed and observed by an individual that is qualified.

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4. evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Chapter 3;

5. evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task.

6. communicate changes that affect covered tasks to individuals performing those covered tasks; and

7. identify those covered tasks and the intervals at which evaluation of the individual's qualification is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§3007. Recordkeeping

A. Each operator shall maintain records that demonstrate compliance with this chapter.

1. qualification records shall include:

- a. identification of qualified individual(s);
- b. identification of the covered tasks the individual is qualified to perform;
- c. date(s) of current qualification; and
- d. qualification method(s).

2. records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

§3009. General

A. Operators must have a written qualification program by April 27, 2001.

B. Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.

C. Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to August 27, 1999.

D. After October 28, 2002, work performance history may not be used as a sole evaluation method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

' 3011. List of Organizations and Addresses

A. The following organizations develop and publish material standards and specifications that are used by the pipeline industry. The most current editions of such publications can be procured directly from the organization, agency or committee listed below.

1. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, VA 22209.

2. American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036.

3. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

3. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017.

4. The American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

5. Manufactures Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NW., Vienna, VA 22180.

6. National Fire Protection Association (NFPA), 1 Battery March Park, P.O. Box 9101, Quincy, MA 02269-9101.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

' 3013. Documents

A. The following documents are incorporated by reference. The material standards and specifications depicted in these publications establish the minimum requirements for pipeline construction, operations and maintenance.

1. American Gas Association (AGA)
 - a. AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 22, 1989).
2. American Petroleum Institute (API)
 - a. API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe" (4th edition, 1990).
 - c. API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (21st edition, 1994).
 - d. API Standard 1104 "Welding of Pipelines and Related Facilities" (18th edition, 1994).
3. American Society for Testing and Materials (ASTM)
 - a. ASTM Designation: A 53 "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless" (a53-96).
 - b. ASTM Designation: a106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (a106-95).
 - c. ASTM Designation: A333/A333M "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (A333/A333M-94).
 - d. ASTM Designation: A372/A372M "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels" (A372/A372M-95).
 - e. ASTM Designation: A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems" (A381-93).
 - f. ASTM Designation: A671 "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (A671-94).
 - g. ASTM Designation: A672 "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A672-94).
 - h. ASTM Designation: A691 "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures" (A691-93).
 - i. ASTM Designation: D638 "Standard Test method for Tensile Properties of Plastics" (D638-96).

j. ASTM Designation: D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (D2513-87 edition for ' 192.63(a), otherwise D2513-96a).

k. ASTM Designation: D2517 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (D2517-94).

l. ASTM Designation: F1055 "Standard Specification for Electro fusion Type Polyethylene fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing" (F1055-95).

4. The American Society of Mechanical Engineers(ASME)

a. ASME/ANSI B16.1 "Cast Iron Pipe Flanges and Flanged Fittings" (1989).

b. ASME/ANSI B16.5 "Pipe Flanges and Flanged Fittings" (1988 with October 1988 Errata and ASME/ANSI B16.5a-1992 Addenda).

c. ASME/ANSI B31G "Manual for Determining the Remaining Strength of Corroded Pipelines" (1991).

d. ASME/ANSI B31.8 "Gas Transmission and Distribution Piping Systems" (1995).

e. ASME Boiler and Pressure Vessel Code, Section I "Power Boilers" (1995 edition with 1995 Addenda).

f. ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Pressure Vessels" (1995 edition with 1995 Addenda).

g. ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Pressure Vessels: Alternative Rules" (1995 edition with 1995 Addenda).

h. ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualification" (1995 edition with 1995 Addenda).

5. Manufactures Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

a. MSS SP-44-96 "Steel Pipe Line Flanges" (includes 1996 errata) (1996).

b. [Reserved].

6. National Fire Protection Association (NFPA):

a. NFPA 30 "Flammable and Combustible Liquids Code" (1996).

b. ANSI/NFPA 58 "Standard for the Storage and Handling of Liquefied Petroleum Gases" (1995).

c. ANSI/NFPA 59 "Standard for the storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants" (1995).

d. ANSI/NFPA 70 "National Electrical Code" (1996).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

' 3015. Qualification of Pipe

A. The following publications are incorporated by reference. These publications define minimum material standards and specifications for pipe.

1. Listed Pipe Specifications. (Numbers in Parentheses Indicate Applicable Editions.)

a. API 5L-Steel pipe (1995)

b. ASTM A53-Steel pipe (1995a)

c. ASTM A106-Steel pipe (1994a)

- d. ASTM A333/A33M Steel pipe (1994)
- e. ASTM A381-Steel pipe (1993)
- f. ASTM A671-Steel pipe (1994)
- g. ASTM A672-Steel pipe (1994)
- h. ASTM D2513-Thermoplastic pipe and tubing (1996(a)).
- i. ASTM D2517-Thermosetting plastic pipe and tubing (1994)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

' 3017. Steel Pipe of Unknown or Unlisted Specification

A. Bending properties. For pipe 2 inches (51 millimeters) or less in diameter, a length of pipe must be cold bent through at least 90 degrees around a cylindrical mandrel that has a diameter 12 times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld.

1. For pipe more than 2 inches (51 millimeters) in diameter, the pipe must meet the requirements of the flattening tests set forth in ASTM A53, except that the number of tests must be at least equal to the minimum required in Paragraph D of this section to determine yield strength.

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under Subpart E of this part. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches (102 millimeters) in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches (102 millimeters) or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104. If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with section IX of the ASME Boiler and Pressure Vessels Code. The same number of chemical tests must be made as are required for testing a girth weld.

C. Inspection. The pipe must be cleaned enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and there are not defects which might impair the strength or tightness of the pipe.

D. Tensile Properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. 165 Mpa) or less, or the tensile properties may be established by performing tensile tests as set forth in API Specification 5L. All test specimens shall be selected at random and the following numbers of tests must be performed:

Number of Tensile Tests-All Sizes	
10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths but not less than 20 tests.

1. If the yield-tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in ' 192.55 (c):

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

' 3019. Steel Pipe Manufactured before November 12, 1970, to Earlier Editions of Listed Specifications

A. Steel pipe manufactured before November 12, 1970, in accordance with a specification of which a later edition is listed in ' 3015, is qualified for use under this part if the following requirements are met.

1. Inspection. The pipe must be clean enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and that there are no defects which might impair the strength or tightness of the pipe.

2. Similarity of specification requirements. The edition of the listed specification under which the pipe was manufactured must have substantially the same requirements with respect to the following properties as a later edition of that specification listed in ' 3015:

a. physical (mechanical) properties of pipe, including yield and tensile strength, elongation, and yield to tensile ratio, and testing requirements to verify those properties;

b. chemical properties of pipe and testing requirements to verify those properties.

3. Inspection or test of welded pipe. On pipe with welded seams, one of the following requirements must be met:

a. The edition of the listed specification to which the pipe was manufactured must have substantially the same requirements with respect to nondestructive inspection of welded seams and the standards for acceptance or rejection and repair as a later edition of the specification listed in ' 3015.

b. The pipe must be tested in accordance with Subpart J of this part to at least 1.25 times the maximum allowable operating pressure if it is to be installed in a class 1 location and to at least 1.5 times the maximum allowable operating pressure if it is to be installed in a class 2,3 or 4 location. Notwithstanding any shorter time period permitted under Subpart J of this part, the test pressure must be maintained for at least 8 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

' 3021. Qualification of Welders for Low Stress Level Pipe

A. Basic Test. The test is made on pipe 12 inches (305 millimeters) or less in diameter. The test weld must be made with the pipe in a horizontal fixed position so that the test weld includes at least one section of overhead position welding. The beveling, root opening, and other details must conform to the specifications of the procedure under which the welder is being qualified. Upon completion, the test weld is cut into four coupons and subjected to a root bend

test. If, as a result of this test, two or more of the four coupons develop a crack in the weld material, or between the weld material and base metal, that is more than 1/8-inch (3.2 millimeters) long in any direction, the weld is unacceptable. Cracks that occur on the corner of the specimen during testing are not considered.

B. Additional Tests for Welders of Service Line Connections to Mains. A service line connection fitting is welded to a pipe section with the same diameter as a typical main. The weld is made in the same position as it is made in the field. The weld is unacceptable if it shows a serious undercutting or if it has rolled edges. The weld is tested by attempting to break the fitting off the run pipe. The weld is unacceptable if it breaks and shows incomplete fusion, overlap, or poor penetration at the junction of the fitting and run pipe.

C. Periodic Tests for Welders of Small Service Lines. Two samples of the welders work, each about 8 inches (203 millimeters) long with the weld located approximately in the center, are cut from steel service line and tested as follows:

1. One sample is centered in a guided bend testing machine and bent to the contour of the die for a distance of 2 inches (51 millimeters) on each side of the weld. If the sample shows any breaks or cracks after removal from the bending machine, it is unacceptable.

2. The ends of the second sample are flattened and the entire joint subjected to a tensile strength test. If failure occurs adjacent to or in the weld metal, the weld is unacceptable. If a tensile strength testing machine is not available, this sample must also pass the bending test prescribed in subparagraph 1. of this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

' 3023. Criteria for Cathodic Protection and Determination of Measurements

A. Criteria for Cathodic Protection

1. Steel, Cast Iron, and Ductile Iron Structures

a. A negative (cathodic) voltage of at least 0.85 volt, with reference to a saturated copper-copper sulfate half cell. Determination of this voltage must be made with the protective current applied, and in accordance with paragraphs B and D of this section.

b. A negative (cathodic) voltage shift of at least 300 millivolts. Determination of this voltage shift must be made with the protective current applied, and in accordance with Paragraphs B and D of this section. This criterion of voltage shift applies to structures not in contact with metals of different anodic potentials.

c. A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Paragraphs C and D of this section.

d. A voltage at least as negative (cathodic) as that originally established at the beginning of the Tael segment of

the E-log-I curve. This voltage must be measured in accordance with Paragraph D of this section.

e. A net protective current from the electrolyte into the structure surface as measured by the earth current technique applied at predetermined current discharge (anodic) points of the structure.

2. Aluminum Structures

a. Except as provided in subparagraphs c. and d. of this paragraph, a minimum negative (cathodic) voltage shift of 150 millivolts, produced by the application of protective current. The voltage shift must be determined in accordance with Paragraphs B and D of this section.

b. Except as provided in subparagraphs c. and d. of this paragraph, a minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Paragraphs C and D of this section.

c. Notwithstanding the alternative minimum criteria in subparagraphs a. and b. of this paragraph, aluminum, if cathodically protected at voltages in excess of 1.20 volts as measured with reference to a copper-copper sulfate half cell, in accordance with Paragraph D. of this section, and compensated for the voltage (IR) drops other than those across the structure-electrolyte boundary may suffer corrosion resulting from the build-up of alkali on the metal surface. A voltage in excess of 1.20 volts may not be used unless previous test results indicate no appreciable corrosion will occur in the particular environment.

d. Since aluminum may suffer from corrosion under high pH conditions, and since application of cathodic protection tends to increase the pH at the metal surface, careful investigation or testing must be made before applying cathodic protection to stop pitting attack on aluminum structures in environments with a natural pH in excess of 8.

3. Copper Structures. A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Sections C. and D. of this section.

4. Metals of Different Anodic Potentials. A negative (cathodic) voltage, measured in accordance with section D. of this appendix, equal to that required for the most anodic metal in the system must be maintained. If amphoteric structures are involved that could be damaged by high alkalinity covered by Subparagraphs c. and d. of Paragraph A.2. of this section, they must be electrically isolated with insulating flanges, or the equivalent.

B. Interpretation of voltage measurement. Voltage (IR) drops other than those across the structure electrolyte boundary must be considered for valid interpretation of the voltage measurement in Subparagraphs A.1.a. and A.1.b. and Subparagraph A.2.a. of this Section.

C. Determination of Polarization Voltage Shift. The polarization voltage shift must be determined by interrupting the protective current and measuring the polarization decay.

When the current is initially interrupted, an immediate voltage shift occurs. The voltage reading after the immediate shift must be used as the base reading from which to measure polarization decay in Subparagraphs A.1.c. and A.2.b. and paragraph A.3. of this section.

D. Reference Half Cells

1. Except as provided in Paragraphs 2 and 3 of this section, negative (cathodic) voltage must be measured between the structure surface and a saturated copper-copper sulfate half cell contacting the electrolyte.

2. Other standard reference half cells may be substituted for the saturated copper-copper sulfate half cell. Two commonly used reference half cells are listed below along with their voltage equivalent to -0.85 volt as referred to a saturated copper-copper sulfate half cell:

a. Saturated KCl calomel half cell: -0.78 volt.

b. Silver-silver chloride half cell used in sea water: -0.80 volt.

3. In addition to the standard reference half cells, and alternate metallic material or structure may be used in place of the saturated copper-copper sulfate half cell if its potential stability is assured and if its voltage equivalent referred to a saturated copper-copper sulfate half cell is established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:0000 (September 2001).

Chapter 31. Drug Testing

§3101. Scope and Compliance

A. - C. ...

D. This chapter applies to pipeline operators, only with respect to pipeline employees located within the territory of the United States, including those employees located with the limits of the outer continental shelf as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 27:0000 (September 2001).

§3103. Definitions

* * *

Covered Employee A person who performs, on a pipeline or LNG facility, an operations, maintenance, or emergency-response function regulated by 49 CFR Part 192, 193, or 195. This does not include clerical, truck driving, accounting, or other functions not subject to 49 CFR Part 192, 193, or 195. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

Covered Function Can operations, maintenance, or emergency-response function conducted on the pipeline or LNG facility that is regulated by 49 CFR Part 192, 193, or 195.

* * *

Employee definition repealed

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998), LR 27:0000 (September 2001).

§3107. Anti-Drug Plan

A. - A.2. ...

3. the name and address of the operator's medical review officer, and substance abuse professional; and

A.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998), LR 27:0000 (September 2001).

§3111. Drug Tests Required

A. Each operator shall conduct the following drug tests for the presence of a prohibited drug:

A.1. - 4. ...

5. Return to Duty Testing. A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has been evaluated face-to-face by a SAP, has properly followed any prescribed assistance, has passed a return-to-duty drug test administered under this Chapter and the SAP has determined that the employee may return to duty.

6. Follow-Up Testing. A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:135 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 21:826 (August 1995), repromulgated LR 21:955 (September 1995), LR 27:0000 (September 2001).

§3115. Review of Drug Testing Results

A. - C.2.e. ...

3. ensure that an employee has been drug tested in accordance with the DOT Procedures before the employee returns to duty.

D. MRO Determinations. The following Rules govern MRO determinations.

1. If the MRO determines, after appropriate review, that there is a legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO is not required to take further action.

2. If the MRO determines, after appropriate review, that there is no legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO shall refer:

a. the individual tested to a personnel or administrative office for further proceedings in accordance with the operator's anti-drug program; and

b. for evaluation by a SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with drug misuse.

3. Based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the MRO may conclude that a particular drug test result is scientifically insufficient for further action. Under these circumstances, the MRO should conclude that the test is negative for the presence of a prohibited drug or drug metabolite in an individual's system.

E. Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment or costs shall be made in accordance with the operator/employee agreements and operator/employee policies.

F. The operator shall ensure that a substance abuse professional, who determines that a covered employee requires assistance in resolving problems with drug abuse, does not refer the covered employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring a covered employee for assistance provided through:

1. a public agency, such as a state, parish, or municipality;

2. the operator or a person under contract to provide treatment for drug problems on behalf of the operator;

3. the sole source or therapeutically appropriate treatment under the employee's health insurance program; or

4. the sole source of therapeutically appropriate treatment reasonably accessible to the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16:534 (June 1990), LR 27:0000 (September 2001).

§3117. Retention of Samples and Retesting

A. Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or the employee's representative, the operator, the administrator, or, if the operator is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for an additional period. If

within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:136 (February 1990), repromulgated LR 16:535 (June 1990), amended LR 21:827 (August 1995), LR 27:0000 (September 2001).

Philip N. Asprodites
Commissioner of Conservation

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RULE

Department of Public Safety and Corrections Gaming Control Board

Operating Standards
(LAC 42:VII.2953, 3304, 3305; IX.2922,
3304, 3305; XIII.2953, 3304, and 3305)

The Louisiana Gaming Control Board has amended LAC 42:VII.2953, 3305, IX.2922, 2923, 3305 and XIII.2953, 3305 and adopted LAC 42:VII.2954, 3304, IX.3304 and XIII.2954, 3304 and repealed LAC IX.2924 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

Chapter 29. Operating Standards

§2953. Promotions

A. All promotional programs, including contests and tournaments, conducted by or on behalf of a licensee shall comply with the Act and these regulations as well as all federal and state laws and regulations and municipal ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The licensee and its general manager conducting the promotional program is responsible for ensuring that all promotional programs of the licensee are in compliance with Subsection A of this regulation.

C. No promotional programs, including contests or tournaments may be conducted which impair the integrity of the games, the security, surveillance and well-being of persons on the licensee's property or the calculation of gaming revenue. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that do not impact the calculation of gaming revenues, shall be considered a promotional expense of the licensee. Licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot

which results from the promotion shall not be paid out by the machine itself. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the licensee, and may not be considered a payout for purposes of calculating net gaming proceeds.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements:

1. only persons 21 years of age and older shall be eligible to participate;
2. entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino;
3. no payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to participate in any gaming activity or to pay an entry fee.

F. After notice and reasonable opportunity for the licensee to respond and correct deficiencies or violations appropriate under the circumstances, the division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000), amended LR 27:0000 (September 2001).

§2954. Tournaments

A. All gaming tournaments conducted by or on behalf of the licensee are subject to prior written approval by the division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to any contest or event wherein an entry fee is paid to play a game previously approved by the division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of gaming tournament shall be made in writing and received by the division at least 30 days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming proceeds. No cost incurred by the licensee associated with holding the tournament shall be deducted from the entry fees before calculating net gaming proceeds. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating net gaming proceeds. No other deductions shall be made for purposes of calculating net gaming proceeds. The licensee shall not deduct the cost of

any noncash prizes awarded as a result of the tournament for purposes of calculating net gaming proceeds.

5. All entry fees and cash prizes shall be reported on the daily tax remittance summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily tax remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with the division's rules concerning record retention in Chapter 27.

B. The division may waive the requirements of this rule upon a showing of good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:0000 (September 2001).

Chapter 33. Surveillance

§3304. Surveillance Personnel Employment Provisions

A. Surveillance department employees shall be independent of all other departments. Employees of the licensee assigned to monitoring duties in the surveillance room are prohibited from being concurrently employed in any other capacity by that licensee or any other licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate. This does not prohibit an employee with monitoring duties in the surveillance room from working in the same capacity at another licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:0000 (September 2001).

§3305. Surveillance and Division Room Requirements

A. - B. ...

C. Employees of the licensee assigned to monitoring duties in the surveillance room shall have no other gaming related duties for the licensee.

D. - F. ...

G. The division room shall be furnished with all necessary furniture and fixtures as specified by the division and shall be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §4205.

H. Except in the event of circumstances beyond the reasonable control of the licensee or unless authorized by the division, the surveillance room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:771 (April 2000), amended LR 27:0000 (September 2001).

Part IX. Landbased Casino Gaming

Chapter 29. Operating Standards

§2922. Promotions

A. All promotional programs, including contests and tournaments, conducted by or on behalf of the Casino Operator or the Casino Manager shall comply with the Act and these Regulations as well as all federal and state laws and regulations and municipal ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The Casino Operator or the Casino Manager conducting the promotional program is responsible for ensuring that all promotional programs of the Casino Operator and Casino Manager are in compliance with subsection A of this regulation.

C. No promotional programs, including contests or tournaments may be conducted which impair the integrity of the games, the security, surveillance and well-being of persons in the official gaming establishment or the calculation of gaming revenue. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that do not impact the calculation of gaming revenues, shall be considered a promotional expense of the Casino Operator or Casino Manager. If the Casino Operator or the Casino Manager intends to offer coupons, scrip, and cash equivalents as part of a promotion it shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the Division.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot which results from the promotion shall not be paid out by the machine itself. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the Casino Operator or the Casino Manager, and may not be considered a payout for purposes of calculating Gross Gaming Revenue.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements:

1. only persons 21 years of age and older shall be eligible to participate;
2. entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the Casino;
3. no payment or purchase of anything of value, including chips or tokens from the Casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to participate in any gaming activity or to pay an entry fee.

F. After notice and reasonable opportunity for the Casino Operator or Casino Manager to respond and correct deficiencies or violations appropriate under the circumstances, the Division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:335 (February 2000), amended LR 27:0000 (September 2001).

§2923. Tournaments

A. All gaming tournaments conducted by or on behalf of the Casino Operator or the Casino Manager are subject to prior written approval by the Division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the Division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to any contest or event wherein an entry fee is paid to play a game previously authorized by the Division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of a gaming tournament shall be made in writing and received by the Division at least 30 days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The Division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included for purposes of determining Gross Gaming Revenue. No cost incurred by the Casino Operator or Casino Manager associated with holding the tournament shall be deducted from the entry fees before calculating Gross Gaming Revenue. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating Gross Gaming Revenue. No other deductions shall be made for purposes of calculating Gross Gaming Revenue. The Casino Operator or Casino Manager shall not deduct the cost of any noncash prizes awarded as a result of the tournament for purposes of calculating Gross Gaming Revenue.

5. All entry fees and cash prizes shall be reported on the daily fee remittance summaries in a manner Approved by the Division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily fee remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with the Division's rules concerning record retention in Chapter 27.

B. The Division may waive the requirements of this rule upon a showing of good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:336 (February 2000), amended LR 27:0000 (September 2001).

§2924. Giveaways and Drawings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:336 (February 2000), LR 27:0000 (September 2001).

Chapter 33. Surveillance

§3304. Surveillance Personnel Employment Provisions

A. Surveillance department employees shall be independent of all other departments. Employees of the Casino Operator or Casino Manager assigned to monitoring duties in the Surveillance Room are prohibited from being concurrently employed in any other capacity by that Casino Operator or Casino Manager or any other licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate. This does not prohibit an employee with monitoring duties in the Surveillance Room from working in the same capacity at another.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:0000 (September 2001).

§3305. Surveillance Room and Gaming Board's Controlled Space Requirements

A. - B. ...

C. Employees of the Casino Operator or Casino Manager assigned to monitoring duties in the Surveillance Room shall have no other gaming related duties for the Casino Operator or Casino Manager.

D. - F. ...

G. Consistent with Sections 7.2 and 9.26 of the Casino Operating Contract, the Gaming Board's Controlled Space shall be furnished with all necessary furniture and fixtures as specified by the division and be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §4205 of these Regulations.

H. Except in the event of circumstances beyond the reasonable control of the Casino Operator or Casino Manager or unless authorized by the division, the Surveillance Room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1969 (October 1999), amended LR 27:0000 (September 2001).

Part XIII. Riverboat Gaming

Chapter 29. Operating Standards

§2953. Promotions

A. All promotional programs, including contests and tournaments, conducted by or on behalf of a licensee shall comply with the Act and these regulations as well as all federal and state laws and regulations and municipal

ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The licensee and its general manager conducting the promotional program is responsible for ensuring that all promotional programs of the licensee are in compliance with subsection A of this regulation.

C. No promotional programs, including contests or tournaments may be conducted which impair the integrity of the games, the security, surveillance and well-being of persons on the licensee's property or the calculation of gaming revenue. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that do not impact the calculation of gaming revenues, shall be considered a promotional expense of the licensee. Licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls prior to the implementation of any such programs governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot which results from the promotion shall not be paid out by the machine itself. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the licensee and may not be considered a payout for purposes of calculating net gaming proceeds.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements:

1. only persons 21 years of age and older shall be eligible to participate;

2. entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino;

3. no payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to participate in any gaming activity or to pay an entry fee.

F. After notice and reasonable opportunity for the licensee to respond and correct deficiencies or violations appropriate under the circumstances, the division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board LR 27:0000 (September 2001).

§2954. Tournaments

A. All gaming tournaments conducted by or on behalf of the licensee are subject to prior written approval by the division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to any contest or event wherein an entry fee is paid

to play a game previously approved by the division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of gaming tournament shall be made in writing and received by the division at least 30 days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming proceeds. No cost incurred by the licensee associated with holding the tournament shall be deducted from the entry fees before calculating net gaming proceeds. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating net gaming proceeds. No other deductions shall be made for purposes of calculating net gaming proceeds. The licensee shall not deduct the cost of any noncash prizes awarded as a result of the tournament for purposes of calculating net gaming proceeds.

5. All entry fees and cash prizes shall be reported on the daily tax remittance summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily tax remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with the division's rules concerning record retention in Chapter 27.

B. The division may waive the requirements of this rule upon a showing of good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:0000 (September 2001).

Chapter 33. Surveillance

§3304. Surveillance Personnel Employment Provisions

A. Surveillance department employees shall be independent of all other departments. Employees of the licensee assigned to monitoring duties in the surveillance room are prohibited from being concurrently employed in any other capacity by that licensee or any other licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate. This does not prohibit an employee with monitoring duties in the surveillance room from working in the same capacity at another licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate.

B. A surveillance department employee involved in monitoring gaming operations shall not be reemployed by the licensee in any other permitted capacity after the employee resigns from or is terminated by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:0000 (September 2001).

§3305. Surveillance Room and Division Room Requirements

A. - B. ...

C. Employees of the licensee assigned to monitoring duties in the surveillance room shall have no other gaming related duties for the licensee.

D. - F. ...

G. The division room shall be furnished with all necessary furniture and fixtures as specified by the division and be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §4205.

H. Except in the event of circumstances beyond the reasonable control of the licensee or unless authorized by the division, the surveillance room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board LR 27:0000 (September 2001).

Hillary J. Crain
Chairman

0109#018

RULE

Department of Social Services Office of Family Support

Wrap-Around Child Care (LAC 67:III.5202)

The Department of Social Services, Office of Family Support, has amended Title 67, Part III of the Louisiana Administrative Code, the Wrap-Around Child Care Program.

In an effort to increase the availability of child care services to more low income families, the agency is making eligibility requirements less restrictive for full-day/full-year child care services. To remove the burden of receiving applications and verification from Head Start Grantees or other qualified providers, the agency assumes full responsibility for all Wrap-Around Child Care applications.

Title 67
SOCIAL SERVICES

Subpart 12. Child Care Assistance

Chapter 52. Wrap-Around Child Care Program

§5202. Definitions

*Household*Ca group of individuals who live together consisting of the head of the household, the legal spouse of the head of the household or non-legal spouse if the parent of a child in the household, and all children under age 18, including the minor unmarried parent of dependent children who need child care services, unless the minor unmarried parent has been emancipated by law.

*Training and Employment Mandatory Participant*Ceach household member who is required to be employed or engaged in a combination of employment and job training or educational program. These members may include the head of household, the legal spouse of the head of household, the non-legal spouse of the head of household if the parent of a child in the home, and the minor unmarried parent of a child in need of Wrap-Around Child Care services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:0000 (September 2001).

§5203. Conditions of Eligibility

A. A household must meet all of the following eligibility criteria:

1. ...
2. effective May 1, 2001, a child may not receive child care services simultaneously from the Wrap-Around Child Care Program, the Family Independence Work Program (FW), or the Child Care Assistance Program (CCAP);
3. effective May 1, 2001, a household in which any member receives Food Stamps, Medicaid, LaCHIP, SSI, Free or Reduced School Lunch, or Kinship Care Subsidy will be categorically income-eligible and may receive Wrap-Around Child Care if otherwise eligible;
4. effective May 1, 2001, FITAP children who live with a qualified relative who is not a required member of the FITAP assistance unit may receive Wrap-Around Child Care if otherwise eligible;
5. the head of household, that person's spouse, or non-legal spouse if the parent of a child in the household, when a child in that household is in need of Wrap-Around Child Care services, must be:

- a. effective May 1, 2001, employed a minimum average of 20 hours per week ; or
- b. effective May 1, 2001, engaged in a combination of employment and job training or an educational program, for a combined average of at least 20 hours per week; or
- c. if the household includes a minor unmarried parent who is not legally emancipated and whose child is in need of Wrap-Around Child Care services, the household must contain an adult household member who meets the 20-hour criteria. The minor unmarried parent is required to have some countable activity hours. If the adult household members do not meet the 20-hour criteria, the minor unmarried parent must meet the 20-hour criteria. In this situation the adults are not required to have any countable activity hours, unless they have children in need of care, then they are required to have some countable activity hours.

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6. effective May 1, 2001, the number of hours that child care is provided must reasonably correspond to the number of activity hours of the parents and/or adult household members;

7. effective May 1, 2001, at the time of application the household must include at least one child with a need for Wrap-Around Child Care services defined as full-day/full-year child care, that is, full-time (30 or more hours per week) or part-time (less than 30 hours per week), or holiday care that is provided in conjunction with part-time care during the school year, who is;

- a. under age 13; or
- b. age 13 through age 17, with a physical, mental, or emotional disability rendering him incapable of caring for himself, as verified by receipt of SSI or a signed statement of disability from a physician or licensed psychologist;

8. the child needing care must customarily reside more than half of the time with the head of household who is applying for child care services, ensuring that only one household can receive child care services for that child;

9. the head of household or another adult household member must be responsible for the payment of child care costs for a child who lives in the household. A need for child care services does not exist if child care costs will be paid by a third party who is not a household member. However, this will not apply if a third party, not legally obligated to make child care payments, is temporarily doing so until payments begin.

B. - D. ...

E. The household must provide the information and verification necessary for determining eligibility and payment amount. Required verification includes:

1. ...
2. effective May 1, 2001, proof of age;
3. - 5. ...

F. - G ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27: 0000 (September 2001).

§5205. Income Limits

A. Effective May 1, 2001, unless determined categorically income eligible, a household must have total countable income no greater than 130 percent of the Federal poverty level. These amounts are updated annually.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:0000 (September 2001).

§5209. Head Start Grantees and Other Qualified Providers

A. Effective May 1, 2001, the agency will provide services to eligible individuals through contracts with some Head Start Program grantees and other qualified providers who meet the standards and requirements set forth in Paragraphs C through E of this Section, for a designated number of slots. Available slots will be filled on a first-come, first-served basis.

B. Effective May 1, 2001, the contracted Head Start grantee or other qualified provider will establish a child care program that consists of full-day/full-year child care, that is,

full-time (30 or more hours per week) or part-time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year.

C. - E. ...

F. Effective May 1, 2001, the Head Start grantee or other qualified provider shall ensure that procedures are in place to prevent, identify, and report suspected abuse or neglect of children as required by Children's Code Articles 601-610 and 45 CFR 1301.31.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:0000 (September 2001).

§5211. Payments Effective May 1, 2001

A. The Head Start grantee or other qualified provider will be paid a weekly rate of \$85 (\$17 per day) per child for full-day, full-time child care.

B. The Head Start grantee or other qualified provider will be paid \$2.12 per hour per child for part-time care up to a maximum of eight hours per day per child.

C. The Head Start grantee or other qualified provider will be paid \$2.12 per hour for up to a maximum of eight hours per day per child (\$17 per day) for allowable, holiday care provided in conjunction with part-time care during the school year.

D. Payment will not be made for a child who is absent from day care more than ten days in a calendar month or for an extended closure by a provider of more than five consecutive days in a calendar month.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:431 (March 2001), amended LR 27:0000 (September 2001).

J. Renea Austin-Duffin
Secretary

0109#052

RULE

Department of Social Services Office of Rehabilitation Services

Management Services Provided by the State Licensing Agency (LAC 67:VII.517)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) has revised its Blind Enterprises Program Policy Manual, Section 517. Revision to the Management Services Provided by the State Licensing Agency was made to provide the agency with a better means of ensuring accurate reporting by blind enterprise managers in vending facilities.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 5. Business Enterprises Program Manual

§517. Management Services Provided by the State

Licensing Agency

A. Overview of Management Services. Management services include inspection, quality control, consultation, accounting, annual fiscal accountability reviews, regulating, in-service training, and other related services on a systematic basis to support and improve vending facilities.

B. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:527 (March 1999), amended LR 27:0000 (September 2001).

J. Renea Austin-Duffin
Secretary

0109#051

RULE

Department of Social Services Office of Rehabilitation Services

Vocational Rehabilitation Services Program Methodology for Determining Need (LAC 67:VII.115)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) has amended its Vocational Rehabilitation Policy Manual, Section 115, Financial. The agency has amended the methodology to determine a consumer's financial need for certain vocational rehabilitation services. The revised methodology consistently applies a financial need level of 250 percent of the 2001 U.S. Department of Health and Human Services (HHS) Poverty Guidelines as the basis for determining financial need. This Rule does not change the vocational rehabilitation services that are based on financial need.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§115. Financial

A.1. - f. ...

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. Neither a financial needs test nor a budgetary analysis of assets, income, and disability-related expenses shall be applied as a condition for furnishing any vocational rehabilitation service if the individual in need of the service has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals and individuals who are under extended evaluations for purposes of determining the extent of the

individual's participation in the costs of certain vocational rehabilitation services.

2.a. - 3.ii. ...

C. LRS shall use the following methodology to determine an individual's financial need for certain vocational rehabilitation services:

RS-14

**LOUISIANA REHABILITATION SERVICES
Financial Need Analysis**

Consumer's Name : _____ **Social Security Number:** _____

Is the consumer currently receiving any of the following types of assistance?

	Yes*	No		Yes*	No
TANF (formerly AFDC)	_____	_____	SSI	_____	_____
Food Stamps	_____	_____	SSDI	_____	_____

If you answered **YES** to any of the above, the consumer is not expected to contribute to the cost of services on the Individualized Plan for Employment (IPE) other than the use of any available comparable services and benefits. Complete comparable services and benefits and have consumer/representative sign the form on page 3.

COMPARABLE SERVICES AND BENEFITS

- 1. Pell Grant \$ _____
- 2. SEOG \$ _____
- 3. VA Scholarship \$ _____
- 4. JTPA \$ _____
- 5. Scholarships, (i.e. TOPS, etc.) \$ _____
- 6. Stipends, Fellowships, etc. \$ _____

7. Other (List):

- a. _____ \$ _____
- b. _____ \$ _____
- c. _____ \$ _____

INCOME DETERMINATION

1. Total Yearly Gross Income \$ _____

*Verification Source:

- _____ Federal tax return--1040, 1040A, 1040EZ (most current)
- _____ Pay stub showing gross income per _____(month, week, etc.)
- _____ Employer's Statement
- _____ Other (specify) _____

2. Determine the Basic Living Requirement (BLR)

a. Check family size in appropriate box.

Persons	1	2	3	4	5	6	7	8	Other**
Check Family Size									
Allowable BLR**	\$21,475	\$29,025	\$36,575	\$44,125	\$51,675	\$59,225	\$66,775	\$74,325	

**For each additional person over 8, add \$3020.

b. Does income exceed the allowable Basic Living Requirement (BLR)? Yes _____ No _____

If you answered **NO** to 2.b., **STOP**. The consumer is not expected to contribute to the cost of services on the Individualized Plan for Employment (IPE).

If you answered **YES** to 2.b., **CONTINUE**

* Verification must be filed in the consumer's case record.

3. Disability Related Expenses. List the YEARLY costs for necessary disability-related expenses for family members if such disability-related expenses are not covered by any other benefit or resource. (Do not include the costs of any disability related expenses that will be purchased or provided by LRS or any comparable service or benefit.)

- Personal Care Attendant Services \$ _____
- Medications, medical supplies, prescriptions, non-prescription items, and special diet/food related to the disability. \$ _____
- Medical/health insurance premiums, if not already deducted from gross wages \$ _____
- Disability related clothing needs, devices, and adaptive equipment, including maintenance of such devices and equipment \$ _____
- Other (List): _____ \$ _____
- _____ \$ _____
- _____ \$ _____

TOTAL ANNUAL DISABILITY RELATED EXPENSES* \$ _____

4. Assets

a. Liquid Assets - List the total value of any of the following assets owned by either the consumer, consumer's spouse, or consumer's family, as applicable:

- Savings \$ _____
- Stocks/bonds \$ _____
- Certificates of Deposit \$ _____
- Other Liquid Assets \$ _____

b. Other Assets - List the total equity in any of the following other fixed or personal assets owned by the consumer, the consumer's spouse, or consumer's family, as applicable.

DO NOT INCLUDE THE VALUE OF EQUITY IN THE PRIMARY RESIDENCE OR AUTOMOBILES.

- Land or buildings \$ _____
- Second/vacation homes \$ _____
- Rental property \$ _____
- Other Assets \$ _____

c. TOTAL ASSETS (Add 4. a. & b.) \$ _____

*Verification must be in the consumer's case record.

NEED DETERMINATION

Enter total yearly gross income from No. 1 on page 1 1. \$ _____
Enter Total Disability Related Expenses from No. 3 on Page 2. 2. \$ _____
Subtract Line 2 from Line 1 for Net Income 3. \$ _____
Enter Total Assets from No. 4.c. on page 2. 4. \$ _____
Add lines 3 and 4 above for total available resources. 5. \$ _____
Enter amount of Basic Living Requirement (BLR) from chart 6. \$ _____
on page 1.

Check applicable line:

_____ The amount (\$) on Line 5 is equal to or less than the amount (\$) on line 6.
The consumer MEETS Louisiana Rehabilitation Services financial need criteria.

_____ The amount (\$) on Line 5 is greater than the amount (\$) on line 6.
The consumer DOES NOT MEET Louisiana Rehabilitation Services financial need criteria.

I certify the information is correct and complete to the best of my knowledge. I understand that formal planning for services will be on my IPE
and will document the application of comparable services and similar benefits to the cost of planned services.

Consumer's Signature

Date

Counselor's Signature

Date

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 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999), LR 27:212 (February 2001), LR 27:0000 (September 2001).

J. Renea Austin-Duffin
Secretary

0109#049

RULE

Department of Social Services
Office of the Secretary
Bureau of Licensing

Class "B" Child Residential Care Licensing Standards
(LAC 48:I:Chapter 79)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, has promulgated the following in Title 48, Part I, Subpart 3, Licensing and Certification.

This Rule is authorized by Revised Statute 46:1410 et seq. which authorizes the Louisiana Committee on Private Child

Care to develop minimum standards for licensure of Class "B" facilities. This Rule establishes the regulations for Class "B" child residential facilities.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 79. Child Residential Care

§7951. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in child care facilities and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001).

§7953. Authority

A. Legislative Provisions

1. The Louisiana Committee on Private Child Care is charged with the responsibility of developing standards for the licensing of Class "B" facilities.

2. The licensing authority of the Department of Social Services is established by LRS 46:1401 et seq. and LRS 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A Class "B" child residential facility is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24-hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody, and no state or federal funds received for the care of the children.

B. Penalties

1. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private or church agency, shall be licensed.

2. As stipulated in RS 46:1421, whoever operates any child care facility without a valid license shall be fined not less than \$75, nor more than \$250 for each day of such offense.

C. Inspections

1. According to law, it shall be the duty of the Department of Social Services "through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice, all child care facilities and child placing agencies subject to the provisions of the Chapter" (RS 46:1417).

2. When the department is advised or has reason to believe that any person, agency or organization is operating a child residential facility without a license, the department shall make an investigation to ascertain the facts.

3. When the department is advised or has reason to believe that any person, agency or organization is operating in violation of the Class "B" Child Residential Care Minimum Standards, the department shall complete a complaint investigation. All reports of mistreatment received by the department will be investigated.

D. The Louisiana Committee on Private Child Care (Class "B" Child Care Committee)

1. The Louisiana Committee on Private Child Care was created by Act 286 of 1985 to serve two functions.

a. Develop minimum standards for licensure of Class "B" facilities.

b. Consult with the department on matters pertaining to decisions to revoke or refuse to grant a Class "B" license.

2. The Committee is composed of seven members, elected by the Class "B" licensed facilities in the state, representing different types of Class "B" licensed facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001).

§7955. Procedures

A. Initial Application

1. New buildings shall be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located, considering such issues as scale, appearance, density and population. A child residential facility shall not occupy any portion of a building licensed by another agency.

2. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services, Bureau of Licensing. The following steps should be followed.

a. Prior to purchasing, leasing, etc., carefully check all local zoning and building ordinances for the area in which you are planning to locate. Guidelines from the Office of Public Health, Sanitarian Services; the Office of State Fire Marshal, Code Enforcement and Building Safety; and the City Fire Department (if applicable) should be obtained.

b. After securing property, obtain an application form issued by Department of Social Services, Bureau of Licensing, P.O. Box 3078, Baton Rouge, LA 70821-3078, phone: (225) 922-0015, fax: (225) 922-0014.

c. After the facility's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a facility:

- i. Office of Public Health, Sanitarian Services;
- ii. Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. Office of City Fire Department (if applicable);
- iv. Zoning Department (if applicable); and
- v. City or Parish Building Permit Office.

d. Upon receipt of the facility's application by the Bureau of Licensing, a request will be made to the Office of State Fire Marshal, Code Enforcement and Building Safety; Office of City Fire Department (if applicable); Office of Public Health and any known required local agencies to inspect the location as per their standards. It is the applicant's responsibility to obtain these inspections and approvals. A Licensing Specialist shall visit the facility to conduct a licensing inspection.

e. A license will be issued on an initial application when the following requirements have been met and verification is received by the Bureau of Licensing:

- i. approval by the Office of Public Health, Sanitarian Services;
- ii. approval by the Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. approval by the City Fire Department (if applicable);
- iv. approval by the City or Parish Zoning (if applicable);
- v. approval by the City or Parish Building Permit (if applicable);
- vi. a completed licensure inspection verifying substantial compliance with these standards; and
- vii. full license fee paid.

3. When a facility changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed in §7955.A.2.e shall be in compliance for the new location.

4. When a facility changes ownership, a new application and fee shall be submitted. All approvals listed in §7955.A.2.e shall be current. Documentation is required

from the previous owner assuring change of ownership; e.g., letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a facility requires approval from agencies listed in §7955A.2.c and the Bureau of Licensing.

6. The department is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked for the facility's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If an administrator or member of his immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal or denial have been corrected and the administrator/facility is in substantial compliance with all minimum standards.

B. Fees

1. An initial application fee of \$25 shall be submitted with all initial license applications. This fee will be applied toward the license fee when the facility is licensed. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all changes of ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. License fees are required prior to issuance or renewal of a license. However, Class "B" child care facilities or agencies owned or operated by a church or religious organization are exempt from license fees. Fee schedules (based on licensed capacity) are listed below:

- a. 4 to 6 children - \$400;
- b. 7 to 15 children - \$500; and
- c. 16 or more children - \$600.

3. Other licensure fees include:

a. replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. (There is no replacement charge when the request coincides with the regular renewal of a license.); and

b. processing fee of five dollars for issuing a duplicate license with no changes.

C. Relicensing

1. A license shall be renewed on an annual basis. The month of issue of the initial license becomes the anniversary month for all renewals. Generally, all licenses expire on the last day of the month.

2. Approximately 90 days prior to the annual expiration of a license, a notice and an application form will be mailed to the licensee. The completed application along with the full license fee, if applicable, shall be returned prior to relicensure.

3. A relicensing inspection will be made by staff of the Bureau of Licensing to determine continued compliance with licensing regulations.

4. A current approval from the Office of State Fire Marshal, Code Enforcement and Building Safety; the City Fire Department (if applicable); and the Office of Public Health, Sanitarian Services shall be received by the Bureau

of Licensing. It is the responsibility of the licensee to obtain these inspections and approvals.

5. The Department of Social Services, Bureau of Licensing, shall be notified prior to making changes which might have an effect upon the license, i.e., age range of children served, usage of indoor and outdoor space, administrator, hours/months/days of operation, ownership, location, etc.

D. Denial, Revocation, or Non-Renewal of License

1. An application for a license may be denied for any of the following reasons:

a. failure to meet any of the minimum standards for licensure; or

b. conviction of a felony by any of these persons, as shown by a certified copy of the record of the court of conviction:

i. the applicant;

ii. any members or officers if the applicant is a firm or corporation; or

iii. any staff providing care, supervision, or treatment to a resident of the facility.

2. A license may be revoked or renewal denied for any of the following reasons:

a. cruelty or indifference to the welfare of the children in care;

b. violation of any provision of the minimum standards, rules, regulations, or orders of the Department of Social Services;

c. disapproval from any agency whose approval is required for licensure;

d. nonpayment of licensure fee or failure to submit a licensure application;

e. any validated instance of child abuse, corporal punishment, physical punishment, or cruel, severe or unusual punishment may result in revocation, denial or nonrenewal of the license if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure; or

g. any act of fraud such as falsifying or altering documents required for licensure.

E. Appeal Procedure. If the license is refused or revoked because the facility does not meet minimum requirements for licensure, the procedure is as follows:

1. The Department of Social Services, Bureau of Licensing, by certified letter, shall advise the licensee or applicant of the reasons for the denial or revocation and the right of appeal.

2. The administrator or owner may appeal this decision by submitting a written request with the reasons to the Secretary of the Department of Social Services. Write to Department of Social Services, Bureau of Appeals, P.O. Box 2944, Baton Rouge, LA 70821. This written request shall be postmarked within 30 days of the receipt of the notification in §7955.E.1 above.

3. The Bureau of Appeals shall set a hearing after receipt of such a request.

4. An Appeals Hearing Officer shall conduct the hearing. The Hearing Officer shall advise the appellant by certified letter of the decision, either affirming or reversing

the original decision. If the license is refused or revoked, the facility shall terminate operation immediately.

5. If the facility continues to operate without a license, the Department of Social Services may file suit in the district court in the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001).

§7957. Definitions

Abuse and Neglect Reporting Any suspected abuse and/or neglect of a child in a child care center must be reported in accordance with Louisiana Revised Statutes 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

Administrator The person responsible for the on-site, daily implementation and supervision of the overall facility's operation. The Administrator shall have a Bachelor's degree in a social services field and four years of experience in a similar type of child care facility, or a Master's degree and two years of related experience.

Bedroom Space A distinct area used as a sleeping area for clients; a dormitory-style bedroom may be broken into several bedroom spaces by the use of partitions. A facility shall have a minimum of 60 square feet of floor area per child in living areas accessible to children and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

Client A person who receives service from a provider.

Client's Service Plan A daily care plan based on the assessment of a client's psychological, social and educational evaluations.

Curator A person appointed by the court when an individual is interdicted to act as guardian with either limited or full powers over the individual's estate and/or person, depending upon the needs of the individual interdicted.

DSSC Department of Social Services.

Discipline A system of rules governing conduct which usually prescribes consequences for the violation of particular rules.

Direct Service Management The act of controlling the various aspects of a provider involving direct services to clients in order to ensure effective care and treatment.

Direct Service Worker Any employee of a provider who works directly with clients as a major function of his/her job.

Family The natural or adoptive father, mother, brother(s) and sister(s), but "family" may be interpreted broadly to include any person, whether related to the client by blood or not, who resides in the client's home and takes part in the client's family life.

Governing Body A person or persons with the ultimate responsibility for conducting the affairs of a provider as, for example, the Board of Directors.

Legally Responsible Person As appropriate, the parent(s) or tutor of a minor or the curator of an interdicted client.

License A written certification, whether provisional, extended or regular, of a provider's authorization to operate under State Law.

Living Unit An integral living space utilized by a particular group of clients who reside in that space.

Parent(s) Natural or adoptive mother and father of a client.

Passive Physical Restraint The least amount of direct physical contact required on the part of a staff member to prevent a client from harming himself/herself or others.

Provider Any 24-hour residential facility, whether public or private, that services clients.

Psychotropic Medication Prescription medication given for the purpose of producing specific changes in mood, thought processes, or behavior. They exert specific effects on brain function and can be expected to bring about specific clinically beneficial responses in clients for whom they are prescribed. The term as used in this policy does not include all drugs which affect the central nervous system or which may have behavioral effects; e.g., anticonvulsants or hormones.

Restraint The extraordinary restriction of a client's freedom or freedom of movement.

Service Plan A comprehensive, time-limited goal-oriented, individualized plan for care, treatment and education of a client in the care of a provider. The service plan is based on a current comprehensive evaluation of the client's needs.

Social Worker A Master's level professional.

Time-Out Procedure The isolation of a client for a period of less than 30 minutes in an unlocked room.

Training Any activity outside the normal routine of the provider which promotes the development of skills related to client care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

Treatment Strategy An orientation or set of clinical techniques included in a particular therapeutic model and used to meet a diagnosed need of a client in care over and above the provisions of basic care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001).

§7959. Administration and Organization

A. Class "B" facilities must comply with all regulations set by the Office of the State Fire Marshal, the Office of Public Health, local zoning laws and all laws regarding child abuse or neglect. Client-staff ratios and minimum space requirements will be enforced by the Department of Social Services. Class "B" facilities must comply with regulations restricting hiring felons, prohibiting racial discrimination and prohibiting the use of corporal punishment without parental permission. Class "B" facilities must comply with additional regulations promulgated by the Louisiana Committee on Private Child Care. Core regulations must promote safe physical facilities, adequate supervision and qualified staff, healthful food service, procedures for nighttime care, and procedures for the disposition of complaints.

B. General Requirements

1. A provider shall follow federal and state laws on client civil rights. No residential facility shall discriminate based on race, color, creed or national origin or ancestry. However, this shall not restrict the hiring or admission policies of a church or religious organization which may give preference in hiring or admission to members of the church or denomination.

2. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department and without previous notice, all residential child care facilities subject to the provisions of Chapter 14 of Title 46. The department shall also develop and facilitate coordination with and among other authorized agencies making inspections at regular intervals. The facility shall be open to inspection only during working hours by parents or legal guardians of clients in care and by authorized inspection personnel.

3. The provider is required to show evidence of compliance with the regulations set by the Louisiana Committee on Private Child Care. Documentation indicating compliance with a standard will not be required when it is obvious that the standard is met.

C. Other Jurisdictional Approvals. The provider shall show appropriate evidence of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies including DSS Licensing Bureau, Office of Health Services, Office of the State Fire Marshal, City Fire Marshal's Office (if applicable), applicable local zoning ordinances (if applicable) and Department of Education (if applicable).

D. Governing Body

1. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the provider.

2. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership, if applicable; officers of the governing body, if applicable; and terms of office of all officers, if applicable.

3. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year. A provider shall have written minutes of all formal meetings of the governing body, and by-laws specifying the frequency of meetings and quorum requirements.

E. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure that the provider is adequately funded and fiscally sound;
4. review and approve the provider's annual budget;
5. ensure that the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;
6. designate a person to act as Chief Administrator and delegate sufficient authority to this person to manage the provider;

7. formulate and annually review, in consultation with the Chief Administrator, policies concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

8. annually evaluate the Chief Administrator's performance;

9. have the authority to dismiss the Chief Administrator;

10. meet with representatives of DSS whenever required to do so;

11. inform representatives of DSS prior to initiating any substantial changes in the program, services, or physical plant of the provider.

F. Accessibility of Executive. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff or representatives of DSS at all times.

G. Documentation of Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.

2. A privately owned provider shall have documents identifying the names and addresses of owners.

3. A corporation, partnership or association shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, articles of association or by-laws.

H. Statement of Philosophy and Goals. A provider shall have a written statement describing its philosophy and both long-term and short-term goals.

I. Program Description. A provider shall have a written program plan describing the services and programs offered by the provider.

J. Accounting and Recordkeeping

1. A provider should establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

2. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

3. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state and federal laws.

K. Confidentiality and Security of Files

1. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and the provider, as custodian, shall secure records against loss, tampering or unauthorized use.

2. A provider shall maintain the confidentiality of all clients' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly or indirectly, to any unauthorized person.

3. A provider shall obtain written authorization of the client and the client's parent(s), tutor or curator, as applicable, prior to releasing the client's confidential records to anyone other than authorized state or federal agencies or another provider to whom the client may be released.

4. A provider shall, upon request, make available information in the case record to the client, the legally

responsible person or legal counsel of the client. If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be damaging to a client, then that information may be withheld except under court order.

5. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that the client's name and other identifying information is disguised or deleted.

L. Administrative File. A provider shall have an administrative file including:

1. documents identifying the governing body;
2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;
3. documentation of the provider's authority to operate under state law;
4. organizational chart of the provider;
5. insurance policies; and
6. master list of all consulting professional providers used by the provider.

M. Client's Case Record. A provider shall have a written record for each client which shall include administrative, treatment, and educational data from the time of admission until the time the client leaves the provider. A client's case record shall include:

1. name, sex, race, religion, birth date and birthplace of the client;
2. other identification data including court status, legal status, who is authorized to give consents;
3. client's history including, if applicable, family data, educational background, employment record, prior medical history and prior placement history;
4. copy of the client's individual service plan and any modifications thereto, and an appropriate summary to guide and assist direct service workers in implementing the client's program; and
5. findings made in periodic reviews of the plan, including summary of the successes and failures of the client's program and recommendations for any modifications deemed necessary.

N. Medical and Dental Records

1. A provider shall maintain complete health records of a client including:
 - a. report of admission physical examination;
 - b. complete record of all immunizations provided;
 - c. record of medications;
 - d. records of vision, physical or dental examinations;
 - e. complete record of any medical treatment provided for specific illness or medical emergencies; and,
 - f. authorization signed by the parent or legal guardian for medical care, immunizations and hospitalization, when indicated.
2. Upon discharge the provider shall provide a summary of the client's health record to the person or agency responsible for the future planning and care of the client.
3. A provider shall make every effort to compile a complete past medical history on every client. This history shall, whenever possible, include:

- a. allergies to medication;
 - b. immunization history;
 - c. history of serious illness, serious injury or major surgery;
 - d. developmental history;
 - e. current use of prescribed medication;
 - f. current use of alcohol or nonprescribed drugs;
- and
- g. medical history.

O. Personnel File

1. A provider shall have a personnel file for each employee which shall contain:
 - a. application for employment and/or resume;
 - b. three reference letters from former employer(s) and personal references or phone notes on such references;
 - c. any medical examinations required by the provider;
 - d. criminal record and fingerprinting report (LA 15.587.1) and citizenship report (I-9). No felon shall be employed in a Class "B" facility unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer;
 - e. evidence of applicable professional credentials/certifications according to state law;
 - f. annual performance evaluations;
 - g. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility; and
 - h. employee's starting and termination dates.
2. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.
3. A provider shall retain the personnel file of an employee for at least three years after the employee's termination of employment.

P. Fund Raising and Publicity

1. A provider shall have a policy regarding participation of clients in activities related to fund raising and publicity.
2. Consent of the client and, if applicable, the legally responsible person shall be obtained prior to participation in fund raising activities.
3. A provider shall have policies and procedures regarding the photographing and audio or audio-visual recording of clients.
4. The written consent of the client and, if applicable, the legally responsible person shall be obtained before the client is photographed or recorded for research or program publicity purposes.
5. All photographs and recordings shall be used in a manner which respects the dignity and confidentiality of the client.

Q. Representation at Hearings. A provider shall, when allowed by law, have a representative present at all judicial, educational or administrative hearings which address the status of the client in care of the provider.

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§7961. Human Resources

A. Staff Plan. A provider should have a policy for recruitment, supervision and training.

1. Screening

a. A provider's screening procedures should address the prospective employee's qualifications, ability, related experience, character, and social skills as related to the appropriate job description.

b. Prior to employing any person and upon obtaining a signed release and the names of references from the potential employee, a provider shall obtain written references or phone notes on oral references from three persons.

c. All center staff shall be required to obtain within two weeks before or 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is:

i. in good health and physically able to care for clients; and

ii. free from infectious and contagious diseases.

d. Prior to or 30 days after the time of employment all persons shall be free of tuberculosis in a communicable state as evidenced by a negative skin test or a negative chest x-ray. Evidence that an employee is free of active tuberculosis is required on an annual basis thereafter.

e. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

f. A provider shall not knowingly hire, or continue to employ, any person whose health impairs his/her ability to properly protect the health and safety of the clients or is such that it would endanger the physical or psychological well being of the clients. This requirement is not to be interpreted to exclude the hiring or continued employment of persons undergoing temporary medical or emotional problems if the health and safety of the clients can be assured through reasonable accommodation of the employee's condition.

2. Orientation. A provider's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices and goals of the facility, and shall include instruction in safety and emergency procedures and in the specific responsibilities of the employee's job.

3. Training

a. A provider is encouraged to provide in-service training each year. Orientation training and activities related to routine supervision of the employee's task shall not be considered as in-service training.

b. All staff are to maintain a current certification of CPR training. New employees will have 90 days to comply. Documentation will be a copy of certificates on file at the facility.

4. Evaluation

a. A provider should undertake an annual performance evaluation of all staff members.

b. For any person who interacts with clients, a provider's evaluation procedures shall address the quality and nature of a staff member's relationships with clients.

B. Personnel Practices. A provider shall have written personnel policies and written job descriptions for each staff position.

C. Number and Qualifications of Staff

1. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the responsibilities the provider undertakes are carried out and to adequately perform the following functions:

a. administrative functions;

b. fiscal functions;

c. clerical functions;

d. housekeeping, maintenance and food service functions;

e. direct client service functions;

f. supervisory functions;

g. record keeping and reporting functions;

h. social service functions; and

i. ancillary service functions.

2. A provider shall ensure that all staff members are properly certified and/or licensed as legally required.

3. A provider shall ensure that an adequate number of qualified direct service staff are present with the clients as necessary to ensure the health and well-being of clients. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider and the ages, needs and functioning levels of the clients.

4. A provider shall ensure that direct services staff who perform client-living services are administratively responsible to a person whose training and experience is appropriate to the provider's program.

D. External Professional Services. A provider shall obtain any required professional services not available from employees.

E. Volunteers/Student Interns. A provider which utilizes volunteers or student interns on a regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall be:

1. directly supervised by a paid staff member;

2. oriented and trained in the philosophy of the facility and the needs of clients and the methods of meeting those needs;

3. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student; and

4. aware of and briefed on any special needs or problems of clients.

F. Staff Communications

1. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the client. This system of communication shall include:

a. a regular review of individual and aggregate problems of clients including actions taken to resolve these problems;

b. sharing of daily information, noting unusual circumstances, and other information requiring continued action by staff; and

c. records maintained of all accidents, personal injuries and pertinent incidents related to implementation of clients' individual service plans.

2. Any employee of a provider working directly with clients in care shall have access to information from clients'

case records that is necessary for effective performance of the employee's assigned tasks.

3. A provider shall establish procedures which facilitate participation and feedback by staff members in policymaking, planning and program development for clients.

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§7963. Quality of Life

A. Family Involvement

1. A provider should create a policy that encourages ongoing positive communication and contact between clients and their families, their friends and others significant in their lives.

2. A provider should discuss the following with the client's family, other legally responsible persons and significant others, when appropriate:

- a. the philosophy and goals of the provider;
- b. behavior management and disciplinary practices of the provider;
- c. any specific treatment or treatment strategy employed by the provider that is to be implemented for a particular client;
- d. visiting hours, visiting rules and procedures, arrangements for home visits and procedures for communicating with clients by mail or telephone;
- e. the name, telephone number and address of a staff person who may be contacted by the legally responsible person to ask questions or register concerns on an ongoing basis;
- f. a procedure for registering complaints concerning the client's care or treatment. All cases of client abuse or neglect or suspicion of abuse or neglect must be reported to the Child Protection Agency in the DSS Office of Community Services for investigation.

3. Visits to parents and relatives in their own homes should be encouraged, unless they are not of benefit to the client, in order to maintain not only family ties but also ties in the neighborhood and community.

4. A written description of these family involvement strategies is suggested.

B. Normalization. A provider shall ensure that:

1. clients of grossly different ages, developmental levels and social needs shall not be housed in close physical or social proximity, unless such housing is planned to promote the growth and development of all those housed together.

2. clients who are nonambulatory, deaf, blind, epileptic, etc., shall be integrated with peers of comparable social and intellectual development and shall not be segregated on the basis of their handicaps.

C. Community Involvement

1. The client should have opportunities to participate in community life when individual treatment has progressed, so that community activities can become part of the treatment plan.

2. The client might participate in activities sponsored by school, church, and national and local youth agencies (Girl Scouts, Boy Scouts, 4-H Clubs, etc.).

3. The client should have help, when necessary, to conform to community standards.

4. Mass excursions, transportation in vehicles labeled with the name of the center, wearing of uniforms, etc., are undesirable if they call attention to the clients and make them feel different from others.

5. Community interest in clients and efforts in their behalf (parties, entertainment, invitations to visit other families, etc.) should be carefully evaluated to ascertain that they are of benefit to the clients and do not exploit their dependency status.

D. Communication and Visits

1. Telephone Communication

a. A provider shall allow a client to receive and originate telephone calls, subject only to reasonable rules and to any specific restriction in the client's service plan.

b. Any restriction on telephone communication in a client's service plan must be formally approved and shall be reviewed every 30 days.

2. Mail

a. A provider shall allow clients to send and receive mail unopened and unread by staff, unless contraindicated by a restriction in the client's service plan which shall be reviewed every 30 days.

b. A provider shall ensure that clients have access to all materials necessary for writing and sending letters and shall, when necessary, ensure that clients who wish to correspond with others are given any required assistance.

3. Visits

a. A provider shall allow a client to visit or be visited by family and friends, subject only to reasonable rules and to any specific restrictions in the client's service plan.

b. Special restrictions shall be imposed only to prevent serious harm to the client. The reasons for any special restrictions shall be recorded in the client's service plan.

c. Special restrictions must be reviewed every 30 days. If restrictions are renewed, the reasons for renewal shall be recorded in the client's service plan.

d. A written description of these rules and procedures is suggested.

E. Routines

1. A provider shall have a written set of daily routines for clients that are designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to clients and in the provision of adequate periods of recreation, privacy, rest and sleep.

2. Routines should be determined in relation to needs and convenience of both clients and adults living together.

3. Routines should be sufficiently adaptable to a particular client's physical and emotional capacity to conform to them or to allow for special situations.

F. Money and Personal Belongings

1. A provider shall permit and encourage a client to possess his/her own money, either by giving an allowance and/or providing opportunities for paid work, unless otherwise indicated.

2. Money earned, received as a gift or received as allowance by a client shall be deemed to be that client's personal property.

3. Limitations may be placed on the amount of money a client may possess or have unencumbered access to when such limitations are considered to be in the client's best interests.

4. A provider should, as appropriate to the client's age and abilities, provide training in budgeting, shopping and money management.

5. A provider shall allow a client to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the client's service plan. However, the provider shall, as necessary, limit or supervise the use of these items while the client is in care. When extraordinary limitations are imposed, the client shall be informed by staff of the reasons.

6. The security of having and keeping possessions of one's own contributes to a sense of autonomy and identity. Clients should have a safe place for their belongings. Individual storage space should be provided for their collections, play equipment, and other "treasures." Clients with particularly valuable keepsakes may need staff help to keep them safe.

G. Work

1. Each client should be assigned daily or weekly chores that provide opportunities to learn to assume responsibility and to get satisfaction from contributing to work that must be done, according to age, health, interest, ability, and readiness.

2. The chores should be similar to those of family members in the neighboring community. Clients should not be depended upon to do work for which staff should be employed. There should be a limit on the amount of work expected.

3. Staff should approve and supervise all chore assignments. Clients should be encouraged to complete chores, but not forced. Policy for this situation should be covered under the provider's behavior management practices.

4. Clients may be given jobs for which they receive payment, which should be clearly differentiated from duties expected of any client in the course of daily living.

5. When a client engages in off-grounds work, the provider should ensure that:

- a. such work is voluntary and in accordance with the client's abilities;
- b. the work has been approved by staff;
- c. such work is supervised by qualified personnel;
- d. the conditions and compensation of such work are in compliance with applicable State and Federal laws; and
- e. such work does not conflict with the client's service plan.

H. Recreation and Activities

1. Recreation cannot be separated from the total living experience of the client. Play is a learning experience as important as formal education. A recreation program should offer indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs.

2. A provider should provide recreational services based on the individual needs, interests and functioning levels of the clients served.

3. A provider should utilize the recreational resources of the community whenever appropriate. The provider should arrange the transportation and supervision required for maximum usage of community resources.

4. Exercise promotes health and physical development. When clients improve in fitness, their self-concept also improves. Active group play and competitive activities can be balanced by quiet or independent pursuits.

5. A residential care provider should provide adequate recreational equipment and yard space to meet the needs and abilities of its clients. Recreational equipment should be selected in accordance with the number of clients, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

6. Clients should have time to be alone and to engage in solitary activities that they enjoy, such as reading, drawing, playing with dolls, puppets and other toys, working on collections, roller-skating and bicycling. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to records, games, etc. Use of television may have to be governed by rules about hours when viewing is allowed and about choice of programs.

I. Birthdays. Each client's birthday should be celebrated individually in an appropriate manner in the group living unit.

J. Religion

1. A provider should clearly explain its religious orientation, particular religious practices which are observed, and any religious restrictions on admission. This description shall be provided to the client; the legally responsible person, when appropriate; and the responsible agency.

2. The nonsectarian agency has responsibility to provide opportunities for the client who wants to have an appropriate religious affiliation and religious experiences in accordance with the religious preferences of the parents.

3. The agency under religious auspices, whose religious program is an integral part of its service, should make it clear that its service is so based. Clients whose parents want them to make use of such a service should be able to do so.

4. Clients and families who do not choose to participate in religious activities should not be expected to do so in any residential center.

K. Clothing

1. A provider shall ensure that clients are provided with clean, well-fitting clothing appropriate to the season and to the client's age, sex and individual needs. Clothing shall be maintained in good repair.

2. All clothing provided to a client shall go with the client at discharge.

3. Clothing shall belong to the individual client and not be shared in common.

4. Clothing contributes to the client's feeling of worth and dignity. It represents being valued by adults, respect for individuality and having someone who cares for him or her. Clothing should be provided in a manner that helps the client develop self-esteem and a sense of personal responsibility.

L. Personal Care and Hygiene

1. A provider shall establish procedures to ensure that clients receive training in good habits of personal care,

hygiene and grooming, appropriate to their age, sex, and race.

2. Each client should have the personal help that all persons need at times, regardless of age, in waking, dressing, deciding what to wear, combing hair, caring for clothing, grooming, getting ready for meals or school, keeping appointments, going to bed, etc.

M. Food Services

1. It is preferable to have one person in charge of food service who is familiar with nutrition, food service and management. The person responsible for food service should be aware of clients with special nutritional needs, and manage the resources of the dietary services to achieve effective food delivery.

2. A provider shall ensure that a client is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast of the following day. Meal times shall be comparable to those in a normal community home.

3. A provider should develop written menus at least one week in advance.

4. Records of foods purchased shall be maintained on file for 30 days. Menus should provide for a sufficient variety of foods and shall vary from week to week.

5. No client shall be denied a meal for any reason except according to a doctor's order.

6. No client shall be forced-fed or aggressively coerced to eat against his/her will except by order of a doctor.

7. When meals are provided to staff, a provider shall ensure that staff members eat substantially the same food served to clients in care, unless age differences or special dietary requirements dictate differences in diet.

8. A provider shall purchase and provide to clients only food and drink of safe quality, and the storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented.

9. Milk and milk products shall be Grade A and pasteurized.

N. Health Care

1. A provider shall ensure the availability of a comprehensive program of preventive, routine and emergency medical and dental care, as appropriate, for all clients.

2. The provider shall show evidence of access to the following health care aspects:

- a. ongoing appraisal of the general health of each client;
- b. provision for health education, as appropriate;
- c. establishment of an ongoing immunization program;
- d. approaches that ensure that any medical treatment administered will be explained to the client in language suitable to his/her age and understanding;
- e. an ongoing relationship with a licensed physician and dentist to advise the provider concerning medical and dental care;
- f. availability of a physician or fully equipped clinic on a 24-hour a day, seven-day a week basis;
- g. provision for a dental examination as soon as practical after acceptance of the client for care and for treatment, including necessary prophylaxis, orthodontia,

repairs and extractions when indicated, and for annual re-examinations; and

h. access to psychiatric and psychological resources, on both an emergency and ongoing basis, as appropriate to the needs of clients.

O. Medical Care

1. A provider shall arrange a general medical examination by a physician for each client within two weeks of admission unless the client has received such an examination within 30 days before admission and results of this examination are available to the provider. This examination shall include:

- a. an examination of the client for physical injury and disease;
- b. vision and hearing screening; and
- c. a current assessment of the client's general health.

2. Each client taken into care should be immunized against common contagious diseases, including vaccination for smallpox and immunization against diphtheria, tetanus, poliomyelitis, whooping cough, measles and rubella.

3. Whenever indicated, the client shall be referred to an appropriate medical specialist for either further assessment or treatment, i.e., if indicated, neurological examination and psychiatric evaluation, and tuberculin test, including chest x-ray.

4. A provider must ensure that a client receives competent medical care in keeping with community standards of medical practice when he/she is ill. A physical examination shall be arranged when poor health is indicated.

5. When there has been insufficient time to prepare a client for placement, and if an adequate medical history can be obtained, the routine physical examination, as well as routine medical procedures, such as immunization, may be postponed.

P. Dental Services

1. A provider should have an organized system for providing comprehensive diagnostic dental services for all clients, which includes a complete extra- and intra-oral examination, utilizing all diagnostic aids necessary to properly evaluate the client's oral condition within a period of one month following admission, unless such an examination is in the client's case record.

2. A provider shall have access to comprehensive dental treatment services for all clients which include:

- a. provision for dental treatment;
- b. provision for emergency treatment on a 24-hour, seven-day-a-week basis by a qualified dentist;
- c. a recall system that will assure that each client is re-examined at specified intervals in accordance with his/her needs, but at least annually.

3. A copy of the permanent dental record shall be provided to a provider when a client is transferred.

Q. Mental Health Services

1. A provider shall have access to the following services in accordance with the needs of clients:

- a. psychological services;
- b. psychiatric services; and
- c. social work services.

2. A provider shall ensure that all providers of professional and special services:

- a. provide services directly through personal contact with the client;
- b. provide services indirectly through contact with staff members and others working with the client;
- c. develop and record appropriate plans, goals and objectives for the client and, as appropriate, the client's family;
- d. record all significant contacts with the client;
- e. periodically provide written summaries of the client's response to the service, the client's current status relative to the service, and the client's progress, to be maintained in the client's case record;
- f. participate, as appropriate, in the development, implementation and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;
- g. provide services appropriately integrated into the overall program.

3. A provider shall ensure that any professional or special service provided by the provider has:

- a. adequately qualified and, when appropriate, appropriately licensed or certified staff according to state or federal law;
- b. adequate space and facilities;
- c. appropriate equipment;
- d. adequate supplies; and
- e. appropriate resources.

4. A provider shall ensure that any professional or special service provided by a person or agency outside the provider meets all relevant requirements contained herein.

R. Psychological Services

1. A provider should provide psychological services, as appropriate, to the needs of the clientele, including strategies to maximize each client's development of perceptual skills, sensorimotor skills, self-help skills, communication skills, social skills, self-direction, emotional stability, effective use of time (including leisure time), and cognitive skills.

2. Psychologists providing services to the provider shall have at least a Master's degree from an accredited program and appropriate experience or training.

S. Psychiatric Services

1. The services of a psychiatrist should be available for diagnosis, consultation and treatment of clients with mental health needs.

2. Psychiatric consultation should be available to other staff members working with clients in developing a program that promotes mental health and in helping all appropriate staff members understand and use mental health concepts in working with clients and their families.

3. Use should be made of mental health services and client guidance facilities in the community, whenever they are available, for clients and parents.

T. Social Work Services

1. Social services as part of an interdisciplinary spectrum of services shall be provided to the clients through the use of social work methods directed toward:

- a. maximizing the social functioning of each client;
- b. enhancing the coping capacity of the client's family; and

c. asserting and safeguarding the human and civil rights of clients and their families and fostering the human dignity and personal worth of each client.

2. During the evaluation process, which may or may not lead to admission, social workers shall help the client and family to consider alternative services and make a responsible choice as to whether and when placement is indicated.

3. During the client's admission to and residence in the provider, or while the client is receiving services from the provider, social workers shall, as appropriate, provide liaison between the client, the provider, the family and the community in order to:

- a. assist staff in understanding the needs of the client and his/her family in relation to each other;
- b. assist staff in understanding social factors in the client's day-to-day behavior, including staff-client relationships;
- c. assist staff in preparing the client for changes in his/her living situation;
- d. help the family to develop constructive and personally meaningful ways to support the client's experience in the provider through counseling concerned with problems associated with changes in family structure and functioning and referral to specific services, as appropriate; and
- e. help the family to participate in planning for the client's return to the home or other community placement.

4. After the client leaves the provider, the provider's social workers should provide systematic follow-up to assure referral to appropriate community providers, when possible.

U. Medications

1. A provider shall ensure that no medication is given to any client except in accordance with the written order of a physician.

2. There shall be no standing orders for prescription medications.

3. All orders for prescribed drugs shall terminate after a period not to exceed 90 days.

4. All orders for non-prescription drugs shall terminate after a period not to exceed one year.

5. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff or of any medication errors.

6. A provider supervising the self-administration of psychotropic medications shall have a written description of the use of psychotropic medications except when supervised directly by the prescribing certified clinical professional or his agent, i.e., clinical social worker.

7. A provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

8. A medication shall not be administered to any client for whom the medication has not been ordered.

9. Medications shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

10. All medications, prescription and non-prescription, should not be accessible to clients and should be administered by qualified persons according to state law.

V. Grievance Procedure for Clients

1. A provider should create a positive climate and opportunities for clients to make complaints without fear of retaliation.

2. The provider should make every effort to ensure that all clients and their legally responsible person are aware of and understand the grievance procedure.

W. Abuse and Neglect. A provider shall have comprehensive, written procedures concerning client abuse, including:

1. a description of ongoing communications strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, current reporting requirements and applicable laws;

2. a procedure ensuring immediate reporting of any suspected incident to the chief administrator or his/her designee and mandating an initial written summary on the incident to the chief administrator or his/her designee within 24 hours;

3. a procedure for ensuring that the client is protected from potential harassment during the investigation; and

4. a procedure for disciplining staff members who abuse or neglect clients.

X. Reports on Critical Incidents

1. A provider shall require Social Service staff to report and document deaths of clients, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client or clients.

2. Such procedures shall ensure verbal and written reports to the chief administrator.

3. When an incident involves abuse or neglect of a client, death of a client, or entails any serious threat to the client's health, safety or well-being, a provider shall:

a. ensure immediate verbal reporting to the chief administrator or his/her designee and a preliminary written report within 24 hours of the incident;

b. ensure immediate notification of representatives of DSS and other appropriate authorities, according to state law;

c. ensure immediate, documented attempts to notify the legally responsible person of the client;

d. ensure immediate attempts to notify other involved agencies and parties, as appropriate; and,

e. ensure follow-up written reports to all appropriate persons and agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001).

§7965. Direct Service Management

A. Admission Policies

1. A provider shall have a written description of admission policies and criteria which shall include the following information:

a. the age and sex of clients in care;

b. the needs, problems, situations or patterns best addressed by the provider's program;

c. any other criterion for admission;

d. criteria for discharge;

e. any preplacement requirements on the client, the legally responsible person, DSS, or other involved agencies;

f. procedures for ensuring that placement within the program is the least restrictive alternative appropriate to meet the client's needs.

2. The provider shall, when applicable, have policies and procedures governing self-admission. Such policies and procedures shall include procedures for notification, as appropriate, of the legally responsible person.

3. A provider shall not refuse admission to any client on the grounds of race or ethnic origin.

4. A provider shall not admit more clients into care than the number specified on the provider's license.

5. A provider shall not accept any client for placement whose needs cannot be adequately met by the provider's program.

6. A provider shall ensure that the client; the legally responsible person, when appropriate; and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

7. When such involvement of the legally responsible person is not possible or not desirable, the reasons for their exclusion shall be recorded in the admission study.

B. Intake Evaluation

1. The provider shall accept a client into care only when a current comprehensive intake evaluation has been completed, including health and family history and medical, social, psychological and, as appropriate, developmental or vocational or educational assessment.

2. In emergency situations necessitating immediate placement into care, the provider shall:

a. gather as much information as possible about the client to be admitted and the circumstances requiring placement;

b. formalize this in an "emergency admission note" within two days of admission; and,

c. proceed with an intake evaluation as quickly as possible. The intake evaluation shall be completed within 30 days of admission.

C. Clarification of Expectations to Client. The provider shall, consistent with the client's maturity and ability to understand, make clear its expectations and requirements for behavior and provide the client referred for placement with an explanation of the provider's criteria for successful participation in and completion of the program.

D. Placement Agreement

1. The provider shall ensure that a written placement agreement is completed. A copy of the placement agreement, signed by all parties involved in its formulation, shall be kept in client's record.

2. A provider shall not admit any client into care whose presence will be seriously damaging to the ongoing functioning of the provider or to clients already in care.

3. The placement agreement should be developed with the involvement of the client and the legally responsible person. The placement agreement shall include, by reference or attachment, at least the following:

a. discussion of the client's and the family's expectations regarding family contact and involvement;

b. nature and goals of care, including any specialized services to be provided;

- c. religious orientation and practices of the client;
- d. anticipated discharge date and aftercare plan;
- e. delineation of the respective roles and responsibilities of all agencies and persons involved with the client and his/her family;
- f. authorization to care for the client;
- g. authorization to obtain medical care for the client;
- h. arrangements regarding visits, vacation, mail, gifts and telephone calls;
- i. arrangements as to the nature and frequency of reports to and meetings involving the legally responsible person and referring agency;
- j. provision for notification of the legally responsible person in the event of unauthorized absence, illness, accident or any other significant event regarding the client.

4. The provider shall ensure that each client upon placement is checked for illness, fever, rashes, bruises and injury. The client shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the client's record.

5. The provider shall assign a staff member to orient the client and, where available, the family to life at the provider.

E. Discharge and After Care

1. Prior to planned discharge of a client, the provider's staff should formulate an aftercare plan discussing the supports and resources to be provided to the client and the legally responsible person.

a. Prior to discharge, the provider's staff should ensure that the client is aware of and understands his/her aftercare plan.

b. When a client is being placed in another program following discharge, representatives of the staff shall confer with representatives of that program prior to the client's discharge to share information concerning the client.

2. The provider shall have a written policy concerning unplanned discharge. This policy shall ensure that emergency discharges initiated by the provider take place only when the health and safety of a client or other clients might be endangered by the client's further placement at the agency.

a. The provider shall give immediate notice of unplanned discharge to the legally responsible person and shall promptly notify appropriate education authorities.

b. When arranging for placement following an emergency discharge, a provider shall consult with the receiving provider to ensure that the client is placed in a program that reasonably meets the client's needs, if possible.

c. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

3. Within 30 days of discharge of a client, a provider shall compile a written discharge summary to be included in the client's record. When the client is discharged to another agency, this summary should accompany the client. This summary should include:

- a. name and home address of the client and, when appropriate, the legally responsible person;
- b. name, address, telephone number of the provider;
- c. summary of services provided during care;

d. summary of growth and accomplishments during care;

e. assessed needs which remain to be met, and alternate service possibilities which might meet those needs; and

f. statement of an aftercare plan and identification of who is responsible for follow-up services and aftercare.

F. Individual Service Planning

1. A provider shall ensure that a direct service staff who is an appropriately qualified professional is assigned to each client and given responsibility for and authority over:

a. supervision of the implementation of the client's service plan;

b. integration of the various aspects of the client's program;

c. recording of the client's progress as measured by objective indicators;

d. reviewing the client's service plan on a quarterly basis; and

e. monitoring any extraordinary restriction of the client's freedom, including use of any form of restraint, any special restriction on a client's communication with others and any potentially harmful treatment or behavior management technique applied to the client.

2. Service Plan

a. A provider shall, within 30 days of admitting a client, ensure that a comprehensive written psychological, social and, as appropriate, educational assessment of the client has been completed and, on the basis of this assessment, shall develop a comprehensive, time-limited, goal-oriented individual service plan addressing the needs identified by the assessment.

b. Unless it is clearly not feasible to do so, a provider shall ensure that the service plan and any subsequent revisions are explained to the client and, where appropriate, the legally responsible person in language understandable to these persons.

c. The social service staff shall review each plan at least annually and shall evaluate the degree to which the goals have been achieved.

d. The social service worker shall prepare quarterly status reports on the progress of the client relative to the goals and objectives of the service plan. These reports shall be prepared by designated staff and reviewed and approved.

e. A social service worker shall ensure that all persons working directly with the client are appropriately informed of the service plan.

3. Education

a. A provider should ensure that each client has access to appropriate educational services consistent with the client's abilities and needs, taking into account his/her age and level of functioning.

b. All clients of school age must either be enrolled in a school system or a program approved by the Department of Education.

G Arrangement of Clients into Groups. A provider should conscientiously consider the manner in which clients are arranged into groups within the provider, and document that this manner of arranging clients into groups effectively addresses the needs of clients. This statement should be in accordance with the following guidelines.

1. All clients must have privacy and a place to go for periods of relative quiet and inactivity.

2. All clients must have an opportunity to build relationships within small groups.

3. Clients must have an opportunity to form relationships with a consistent group of direct service staff.

H. Behavior Management

1. Clients should be given opportunities to learn gradually to assume responsibilities and make decisions for phases of daily living that they are able to carry out by themselves. They should have the assistance and guidance of workers whom they trust and respect, and with whom they have a positive relationship, while learning self-control and self-direction in a widening sphere of daily life.

a. Discipline is the educational process by which professionals help a client have the experiences that enable the client to learn to live in reasonable conformity with accepted standards of social behavior and to do so by progressively acquiring and applying self-control rather than relying on external pressures.

b. Every provider should develop policies and procedures to govern all disciplinary actions. Staff should be fully aware of these policies and their implications through staff development and written materials.

c. Each client should know the basic rules that include not hurting others, not destroying things and not disrupting ongoing activities.

d. Good discipline involves being clear and specific as to limits on behavior, showing the client what is permitted and what is not, and giving feedback on actions that are right or wrong.

e. Responsibility for discipline should be given to the worker who takes care of the clients and supervises their daily activities.

2. Punishment

a. Punishment should be used only in situations where other means are ineffective and when clients can benefit from the experience of facing the consequences of unacceptable behavior not as an end in itself, but as a part of a learning process.

b. Punishment is one form of intervention by the staff in situations in which the client fails to behave as expected or required, or fails to maintain self-control. The staff should have clear reasons for choosing punishment. It is usually more effective to offer an intervention activity that can be positively enforced rather than an intervention that could prove to be a negative reinforcement to a client.

c. Timing or any punishment should be related to the occurrence of the offense and should not extend over so long a period that it loses meaning for the client.

d. Group punishment for misbehavior of one or more members is not desirable. It can have the negative long-range effect of embittering the clients who are unfairly punished and may disturb group cohesiveness. The group may become hostile to the individual client who may feel alone and rejected by them. The group may also direct its hostility to the staff member. Humiliating or degrading punishment, which undermines the client's respect (including ridicule, sarcasm, shaming, scolding or punishment in the presence of the group or another staff member), should be avoided.

i. Corporal punishment, including slapping, spanking, paddling, belting, hitting or forcing the client to march, stand or kneel rigidly in one spot, or causing any kind of physical discomfort, shall not be used other than when approved by the client's parent or guardian in writing. All state laws must be followed when approved corporal punishment is administered.

ii. Physical restraint of a client by a worker is at times necessary for the protection of the client or others.

3. Misbehavior

a. To be effective, worker intervention should be determined by an understanding of the particular client, the immediate situation, the particular living group of the client, the client's capacity at the time to learn from the experience and the treatment plan.

b. Some situations require purposeful non-interference, i.e., nothing should be done. Others call for active intervention, such as reasoning and discussion of the incident, changing the situation, disapproval, physical restraint or punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001).

§7967. Physical Environment

A. Accessibility. A provider's building, parking lots and facilities shall be accessible to and functional for clients, staff members and the public, as required by applicable federal and state laws and regulations.

B. Exterior Space

1. A provider shall ensure that all structures on the grounds of the facility accessible to clients are maintained in good repair and are free from any excessive hazard to health or safety.

2. A provider shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

a. Garbage and rubbish that is stored outside shall be stored securely in non-combustible, covered containers and shall be removed on a regular basis.

b. Trash collection receptacles and incinerators shall be stored separate from the play area, and be located as to avoid being a nuisance to neighbors.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters or high-speed roads, shall be fenced off or have natural barriers to protect clients.

e. Playground equipment shall be so located, installed and maintained as to ensure the safety of clients.

3. A provider shall have access to outdoor recreational space and suitable recreational equipment.

C. Interior Space

1. Each living unit of a provider should contain a space for the free and informal use of clients. This space shall be constructed and equipped in a manner consistent with the programmatic goals of the provider.

2. A provider shall provide an appropriate variety of interior recreational spaces.

3. A provider shall ensure the immediate accessibility of appropriate first aid supplies in the living units.

4. Dining Areas

a. A provider shall provide dining areas which permit clients, staff and, as appropriate, guests to eat together in small groups.

b. A provider shall provide dining areas which are clean, well-lighted, ventilated and attractively furnished.

5. Sleeping Accommodations

a. A provider should ensure that each client has a safe and comfortable bedroom space appropriate to age, mental health and supervision requirements. Floor space should provide appropriate freedom of movement. In evaluating bedroom floor space, easy access to large adjoining areas should be considered.

b. A provider shall not use a room with a ceiling height of less than seven feet as a bedroom space, except in a room with varying ceiling height in which the portions of the room where the ceiling is at least seven feet allow a useable space.

c. A provider should not permit more than four clients to occupy a designated bedroom space, unless necessitated by supervision requirements.

d. No client over the age of five years shall occupy a bedroom with a member of the opposite sex, unless the persons occupying the bedroom are a married couple, or properly documented medical reasons require it.

e. A provider shall not use any room which does not have a window as a bedroom space.

f. Each client in care of a provider shall have his/her own bed. A client's bed shall be no shorter than the client's height and no less than thirty inches wide, and shall have a clean, comfortable, non-toxic, fire-retardant mattress.

g. A provider shall ensure that sheets, a pillow, a bedspread and blankets are provided for each client.

i. Enuretic clients shall have mattresses with moisture-resistant covers.

ii. Sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.

h. A provider shall provide clients with solidly constructed beds. Cots or other portable beds are not to be used on a routine basis.

i. A provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.

j. A provider shall provide each client in care with his/her own dresser or other adequate storage space for private use, and designated space for hanging clothing in proximity to the bedroom occupied by the client.

k. Each client in care of a provider shall have his/her own designated area for rest and sleep.

l. The decoration of sleeping areas for clients shall allow some scope for the personal tastes and expressions of the clients.

6. Bathrooms

a. A provider shall have an adequate number of washbasins with hot and cold water, flush toilets and bath or shower facilities with hot and cold water, according to client care needs.

i. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

ii. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

iii. Tubs and showers shall have slip-proof surfaces.

b. A provider shall provide toilets and baths or showers which allow for individual privacy, unless clients in care require assistance.

c. A provider shall ensure that bathrooms have a safe and adequate supply of hot and cold running water. This water shall be potable.

d. A provider shall ensure that bathrooms contain mirrors secured to the walls at convenient heights, and other furnishings necessary to meet the clients' basic hygienic needs.

e. A provider shall ensure that bathrooms are equipped to facilitate maximum self-help by clients. Bathrooms shall be large enough to permit staff assistance of children if necessary.

f. Toilets, washbasins and other plumbing or sanitary facilities in a facility shall at all times be maintained in good operating condition, and shall be kept free of any materials that might clog or otherwise impair their operation.

7. Kitchens

a. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and cleanup of all meals for all the clients and staff regularly served by such kitchen. All equipment shall be maintained in working order.

b. A provider shall not use disposable dinnerware at meals on a regular basis, unless the facility documents that such dinnerware is necessary to protect the health or safety of clients in care.

c. A provider shall ensure that all dishes, cups and glasses used by clients in care are free from chips, cracks or other defects.

8. Staff Quarters. A provider utilizing live-in staff shall provide adequate, separate living space with private bathroom for these staff.

9. Administrative and Counseling Space

a. A provider shall provide a space that is distinct from the clients' living areas to serve as an administrative office for records, secretarial work and bookkeeping.

b. A provider shall have a designated space to allow private discussions and counseling sessions between individual clients and staff.

10. Furnishings

a. A provider shall have comfortable, customary furniture as appropriate for all living areas. Furniture for the use of clients shall be appropriately designed to suit the size and capabilities of these clients.

b. A provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the provider.

c. A provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

11. Doors and Windows

a. A provider shall ensure that any designated bedroom in which the bedroom space is not equipped with a mechanical ventilation system is provided with windows that

have an openable area at least 5 percent as large as the total floor area of the bedroom space.

b. A provider shall provide insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

c. A provider shall ensure that all closets used by clients, and bedrooms and bathrooms which have doors, are provided with doors that can be readily opened from both sides.

12. Storage

a. A provider shall ensure that there are sufficient and appropriate storage facilities.

b. A provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

13. Electrical Systems

a. A provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

b. A provider shall ensure that any room, corridor or stairway within a facility is sufficiently illuminated.

c. A provider shall provide adequate lighting of exterior areas to ensure the safety of clients and staff during the night.

14. Heat

a. A provider shall take all reasonable precautions to ensure the heating elements, including exposed hot water pipes, are insulated or installed in a manner that ensures the safety of clients.

b. A provider shall maintain the spaces used by clients at reasonable temperatures.

c. A provider shall not use open flame heating equipment.

15. Water. A provider shall ensure that hot water accessible to clients is regulated to a temperature not in excess of 110 degrees F., unless a variance is granted.

16. Finishes and Surfaces

a. A provider shall not utilize any excessively rough surface or finish where this surface or finish may present a safety hazard to clients.

b. A provider shall not have walls or ceilings surfaced with materials containing asbestos.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001).

§7969. Emergency and Safety

A. Emergency and Safety Plan

1. A provider should have a plan for emergency and safety procedures.

2. The plan should provide for the evacuation of clients to safe or sheltered areas.

3. The plan should include provisions for training of staff and, as appropriate, clients in preventing, reporting and responding to fires and other emergencies.

4. The plan should provide means for an ongoing safety program including continuous inspection of the provider for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies.

B. Emergency Drills

1. A provider shall conduct emergency drills at least once every three months and at varying times of the day.

2. A provider shall make every effort to ensure that staff and clients recognize the nature and importance of such drills.

C. Access to Emergency Services

1. A provider shall have access to 24-hour telephone service.

2. The provider shall either have posted telephone numbers of emergency services, including fire department, police, medical services, poison control and ambulance, or be able to show evidence of an alternate means of immediate access to these services.

D. General Safety Practices

1. A provider shall not maintain any firearm or chemical weapon in the living units of the facility.

2. A provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of clients, staff and visitors.

3. A provider should ensure that an appropriately equipped first-aid kit is available in the provider's building.

4. Every required exit, exit access and exit discharge in a provider's building shall be continuously maintained free of all obstructions or impediments to immediate use in the case of fire or other emergency.

5. A provider shall prohibit the use of candles in sleeping areas of the clients.

6. Power-driven equipment used by a provider shall be kept in safe and good repair. Such equipment shall be used by clients only under the direct supervision of a staff member and according to State Law.

7. A provider shall have procedures to prevent insect and rodent infestation.

E. Transportation

1. The provider shall ensure that each client is provided with the transportation necessary for implementing the client's service plan.

2. The provider shall have means of transporting clients in case of emergency.

3. Any vehicle used in transporting clients in care of the provider, whether such vehicle is operated by a staff member of any other person acting on behalf of the provider, shall be properly licensed and inspected in accordance with State Law.

4. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats in the vehicle.

5. All vehicles used for the transportation of clients shall be maintained in a safe condition and be in conformity with all applicable motor vehicle laws.

6. Identification of vehicles used to transport clients in care of a provider shall not be of such nature to embarrass or in any way produce notoriety for clients.

7. The provider shall ascertain the nature of any need or problem of a client which might cause difficulties during transportation, such as seizures, a tendency towards motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting clients in care.

8. The following additional arrangements are required in all vehicles except automobiles for a provider serving handicapped, non-ambulatory clients:

a. A ramp device to permit entry and exit of a client from the vehicle must be provided for all vehicles that are normally used to transport physically handicapped clients. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency.

b. Wheelchairs used in transit shall be securely fastened to the vehicle.

c. The arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001).

J. Renea Austin-Duffin
Secretary

0109#050

RULE

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Disability (LAC 58:I.2501-2523)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.2503, 2505, 2507, 2509, 2511, 2513, 2525, 2527, and 2529, and repealed LAC 58.I. 2501, 2521, and 2523, and renumbered accordingly.

Title 58 RETIREMENT

Part I. State Employees' Retirement

Chapter 25. Procedures for Processing Disability Applications

§2501. Application for Disability Retirement

A. Applications for disability retirement shall be submitted in accordance with instructions provided to the applicant or applicant's employer by LASERS, and shall be reviewed as follows.

1. Upon receipt of a disability application, LASERS shall verify applicant's eligibility within five business days of receipt of the application.

2. The Application, Examining Physician's Report, the Disability Report by Immediate Supervisor, and Report by Applicant's Human Resource Administrator shall be reviewed for completeness.

3. If the Application or any of the required forms are incomplete or missing, the applicant shall be notified in writing, and will have 10 business days to furnish the requested information. If the applicant fails to comply with this request the Application shall be rejected as ineligible.

B. Whether the applicant is determined to be eligible or ineligible to apply for disability, the applicant shall be

notified in writing by LASERS within 10 business days of the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1957 (October 1998), LR 27:0000 (September 2001).

§2503. Disability Board Physician's Recommendation

A. LASERS shall determine the appropriate State Medical Disability Board physician to perform the initial medical review, based on the area of medical specialty most closely related to applicant's disability.

B. If the State Medical Disability Board does not have a physician practicing in the requisite specialty, LASERS shall appoint a physician who practices in the requisite specialty to the Board or as an alternate physician to perform the initial medical review.

C. The State Medical Disability Board physician shall determine from his review whether to conduct a medical examination of the applicant, or waive the medical examination because obvious and overwhelming medical evidence of disability exists to his satisfaction.

D. State Medical Disability Board physician shall determine that a medical examination is needed to determine whether an applicant is eligible for a disability retirement, LASERS shall schedule an appointment with the appropriate Board physician. The applicant shall be notified of the appointment date and time in writing. The initial examination shall be completed within six weeks of the date the completed disability application is received and eligibility is verified by LASERS.

E. LASERS shall pay the cost of the initial medical examination, including cost of laboratory tests, x-rays, and other direct examination procedures. If the Applicant fails to appear for this medical examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:0000 (September 2001).

§2505. Final Determination

A.1. LASERS shall review the State Medical Disability Board physician's recommendation and, based on that recommendation, either approve or disapprove the application. An applicant shall be considered as certified totally disabled when the State Medical Disability Board physician declares the applicant to be totally incapacitated for the further performance of the normal duties of the job and states that such incapacity is likely to be permanent. In all cases, the examining physician shall make a recommendation if the application should be approved or disapproved. If the physician's recommendation is unclear, the file shall be forwarded to the disability manager for review. The disability manager shall contact the physician for clarification of the recommendation.

2. If a correction officer, probation or parole officer, or security officer of the Department of Public Safety and Corrections, or an employee of the enforcement division in the Department of Wildlife and Fisheries is found to be

permanently totally or partially disabled the applicant shall be entitled to a disability retirement benefit in accordance with either R.S. 11:212(B) or 214, as applicable.

B. If the disability manager cannot make a clear determination, the file shall be sent to LASERS' Executive Director, who shall contact the examining physician for clarification, or another State Medical Disability Board physician for consultation, or an appointed alternate physician shall be consulted when necessary.

C. Any unusual applications shall immediately be presented to the Executive Director for his review and determination on how it should best be handled.

D. When the final determination is made, the applicant shall be notified in writing and a copy shall be forwarded to applicant's agency.

E. A final determination shall be made within 120 days from the date the completed application is verified by LASERS.

F. Disability benefits shall accrue from the date the application was filed or from the day following exhaustion of all sick leave or annual leave claimed by applicant, whichever is later. If an applicant elects to remain on unused sick or annual leave past the 120 days necessary to complete his application, a waiver shall be signed by the applicant and a re-exam shall be scheduled at LASERS' expense after one year from date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:0000 (September 2001).

§2507. Contesting Board Physician's Determination

A. If the certification of the examining physician is contested by either the Applicant or LASERS, the contesting party shall have the right to a second medical examination if a written appeal is filed within 30 days of notification of the initial determination.

B. The second examination shall be performed by a State Disability Board Physician, or appointed alternate physician. LASERS shall schedule the appointment and notify the applicant of the time and place of the second examination in writing.

C. The cost of the second examination shall be paid by the contesting party. If the Applicant fails to appear for this examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

D. If the second physician concurs in the findings and recommendations of the first physician, the original decision shall stand as final and binding on the parties.

E. If the second physician disagrees with the first physician's finding and recommendation, the two physicians shall select a third physician to conduct another examination. The findings and recommendations of the third physician shall be binding, and the cost of the third physician shall be paid by LASERS if the applicant is certified disabled, or by the applicant if the disability claim is denied. If the Applicant fails to appear for this examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:0000 (September 2001).

§2509. Judicial Appeal

A. The applicant has the right to appeal the decision that applicant is not entitled to a disability retirement to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within 30 days of the receipt of the final medical decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:0000 (September 2001).

§2511. Certification of Continuing Eligibility

A. LASERS shall require a disability retiree to complete an Annual Attending Physician Statement (AAPS) once each year during the first five years following the disability retirement and once in every three years thereafter until the retiree has reached the equivalent age of regular retirement unless the medical evidence shows conclusively that the disability retiree cannot recover from the disability. The AAPS needs to be returned within ten business days of receipt by the disability retiree. Depending on the results of the AAPS LASERS may require a disability retiree to undergo a medical examination.

B. If a medical examination is required LASERS shall schedule the appointment with a State Medical Board or appointed alternate physician and notify the disability retiree of the appointment time and place in writing. LASERS must pay the cost of this examination. If the retiree fails to appear for this examination and the physician charges a cancellation fee, the retiree shall be responsible for this fee.

C. The disability retiree shall be notified in writing of the physician's determination. If the physician does not recommend continuing disability, the disability retiree has the same appeal rights as the original applicant as set forth in §2507 herein.

D. If the disability retiree refuses to submit to the examination, or fails to submit the AAPS in the manner set out above his benefit shall be discontinued until he agrees to the examination or submits the AAPS. The benefit will be discontinued 30 days after written notification to the disability retiree. If the refusal continues for one year, all of the retiree's rights in and to the disability benefit shall be revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 26:1490 (July 2000), LR 27:0000 (September 2001).

§2513. Limitation on Earnings

A. If a disability retiree is gainfully employed, the amount of the retiree's earnings are limited; the total amount of earnings plus the disability benefit cannot exceed his final average compensation.

B. For purposes of computing this limitation, an annual cost-of-living adjustment to the final average compensation shall be made based on the Federal Consumer Price Index for the preceding calendar year.

C. The disability retiree must notify LASERS immediately if the retiree becomes employed and the retiree's earnings will exceed the limitation.

D. Each disability retiree shall submit a notarized annual statement of earned income for the previous calendar year. The statement must be submitted no later than May 1, of each calendar year, otherwise the benefit will be discontinued effective June 1 of that calendar year, without retroactive reimbursement, until the statement is filed. If a disability retiree refuses to submit the statement for the remainder of the calendar year, all the retiree's rights in and to the disability retirement shall be revoked.

E. If the earnings limit is exceeded, future benefits shall be reduced to recover the amount of excess earnings. The disability retiree shall be notified in writing of the reduced amount at least 30 days prior to the reduction taking effect.

F. If it is determined that a disability retiree is engaged in gainful occupation which places the retiree over the earnings limit, then the amount of the disability benefit shall be reduced to an amount within the retiree's earnings limit. Should the retiree's earning capacity later change, the disability benefit may be further modified in accordance with R.S. 11:221.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:0000 (September 2001).

§2515. Report to the Board of Trustees

A. The applicants' names and disposition of applications shall be provided to the Board in addition to the monthly retirement supplement for the Board's ratification.

B. The Board shall receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants annually in March for the previous calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:0000 (September 2001).

§2517. Appointment of Physicians to the State Medical Disability Board

A. Physicians may be appointed to the State Medical Disability Board or as an alternate physician by the Executive Director. Such appointments shall be subject to ratification by the Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May

1996), amended LR 24:1959 (October 1998), LR 27:0000 (September 2001).

§2519. Termination of Benefits

A. Upon receipt of a final medical determination that a disability retiree is no longer disabled as a result of the failure to obtain a certification of continuing eligibility the retiree shall have the right to appeal the medical determination under §2507 herein. The benefit shall continue during the appeal period.

B. The disability retiree has the right to appeal this decision to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within thirty (30) days of the receipt of the Board's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:0000 (September 2001).

§2521. Notices

A. Any notice that will terminate a benefit given under this Chapter shall be given as follows:

1. if a disability retiree, the notice shall be given with the retiree's benefit check. If the retiree is receiving his benefit through an electronic fund transfer (EFT), the EFT shall be discontinued for the month notice is required and the retiree shall receive a paper check for that month; or

2. if no benefit is being paid by LASERS, the notice shall be by certified mail, return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:0000 (September 2001).

§2523. Conversion to Regular Retirement

A. In accordance with R.S. 11:217, when a disability retiree vests in a regular retirement benefit under R.S. 11:441, except R.S. 11:441(4), the disability retiree shall be converted to a regular retiree upon attaining the normal vested retirement age and shall receive the full vested benefit. The retiree shall have the option to, but not be required, to select the regular retirement benefit under R.S. 11:441(4) in lieu of a disability retirement benefit if the retiree qualifies for the benefit under R.S. 11:441(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:0000 (September 2001).

Glenda Chambers
Executive Director

0109#014

Notices of Intent

NOTICE OF INTENT

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

Advisory Commission on Pesticides
(LAC 7:XXIII.121,.125 and 129)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding the examinations of applicators, certification of commercial applicators and agricultural consultants.

The amendments clarify and accurately indicate the intent of the regulations. The test scores are in percentage, certification shall be renewed and the consultants are controlling pests.

These rules comply with and are enabled by R.S. 3:3203 and R.S. 3:3223.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter E. Applicators, Salespersons and Agricultural Consultants

§121. Examinations of Applicators, Salespersons and Agricultural Consultants

A. The minimum score necessary for successful completion of examinations for certifications under these rules shall be 70 percent.

B. The director, in cooperation with the director of the Cooperative Extension Service or his designee, shall be responsible for the preparation of all examinations.

C. The director shall be responsible for the administration and grading of all examinations.

D. Each applicant who fails to receive a passing score on any test in any category or subcategory shall wait a minimum of 10 days before being eligible for re-examination.

E. No person shall be allowed to take an examination in any category more than three times in a 12-month period.

F. Louisiana citizens who have failed any examinations under these standards shall not be permitted to receive certification under a reciprocal agreement with another state.

G. All applicants for private applicators' certification must be at least 16 years of age or an emancipated minor. All applicants for salesperson certification must be at least 18 years of age or an emancipated minor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3241 and 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 27:

Subchapter F. Certification

§125. Certification of Commercial Applicators

A. - D. ...

E. Each person that has been certified in any category or subcategory as a commercial applicator, and whose certification has not been revoked or suspended, shall renew that certification by attending a recertification meeting or training course for that category as designated by the commissioner.

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

G. Each person who is certified as a commercial applicator need not be certified as a private applicator or a pesticide salesperson to apply or supervise the application of any restricted use pesticide as a private applicator, or to sell or supervise the sale of restricted use pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 27:

§129. Certification of Agricultural Consultants

A. - D.2.a.i. ...

ii. Forest Entomology. Making recommendations for the control of forest pests.

iii. Household, Structural and Industrial Entomology. Making recommendations for the control of household pests, structural and industrial pests (such as termites, in stores, warehouse and transportation facilities).

iv. Medical, Veterinary and Public Health Entomology. Making recommendations for control of arthropods affecting man and animals.

v. Orchard and Nut Tree Entomology. Making recommendations for the control of orchard pests.

vi. Ornamental Entomology. Making recommendations for the control of pests of ornamentals, lawns, turf and shade trees.

b. Control of Plant Pathogens (Category 2).

i. Agricultural Plant Pathology. Making recommendations for the control of diseases of agronomic crops, especially sugarcane, cotton, rice, soybeans and home garden plants.

ii. Turf, Ornamental, Shade-tree and Floral Plant Pathology. Making recommendations for the control of diseases of turf, ornamentals, shade-trees and floral plants. Also includes greenhouse and nursery plant disease control.

iii. Forest Pathology. Making recommendations for the control of diseases of trees in plantations, nurseries

and managed or unmanaged forests wherein the principal value lies in the production of wood fiber.

iv. Orchard Pathology. Making recommendations for the control of diseases of wood vines and trees wherein the principal value lies in the production of fruits or nuts.

c. Control of Weeds (Category 3).

i. Agricultural Weed Control. Making recommendations for the control of weeds and grasses in field crops, vegetable crops, pastures and rangeland.

ii. Turf, Ornamental and Shade-Tree Weed Control. Making recommendations for the control of weeds and grasses in ornamentals, turf areas, cemeteries and other similar areas.

iii. Forest Weed Control. Making recommendations for the control of weeds and grasses in forest lands.

iv. Right-of-Way and Industrial Weed Control. Making recommendations for the control of weeds and grasses in and around industrial and commercial sites.

d. Soil Management (Category 4).

i. Agricultural Field Soil Management. Knowledgeable in symptoms of soil and/or tissue nutrient problems; sampling techniques for soil and/or tissue analysis; interpretation of laboratory results; and recommendations for soil and/or tissue amendments.

ii. Agricultural Soil, Water and Tissue Laboratory Analysis. Knowledge of all diagnostic procedures pertaining to analysis of soil, water and/or tissue samples.

iii. Agricultural Soil Reclamation. Knowledge of techniques, methods, etc. for restoring or attempting to restore soil productivity as a result of physical and/or chemical disturbance or natural causes such as severe erosion or contaminated soils.

iv. Agricultural Water Management. Knowledge of irrigation scheduling practices and techniques for various enterprises requiring water on a regular or intermittent basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998) amended LR 27:

Family Impact Statement

The proposed amendments to LAC 7:XXIII.Chapter 1 regarding the examinations of applicators, certification of commercial applicators and agricultural consultants should not have any known or foreseeable impact on any family as Defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on October 30, 2001, at 5825 Florida Blvd., Baton

Rouge, LA 70806. No preamble regarding these rules is necessary.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Advisory Commission on Pesticides

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. These regulation changes correct grammatical errors that were overlooked during the rule making process.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is estimated to be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is estimated to be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0109#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Advisory Opinions; Complaints; Hearings; Penalties; Records and Reports Campaign Finance Disclosure Act; Lobbyist Disclosure Act (LAC 52:I.611, 701, 704, 708, 1005, 1202, 1305, 1310, 1313, 1604, 1609, 1610, and 1902)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate amendments and changes to the Rules for the Board of Ethics pursuant to its authority in Section 1134(A) of the Code of Governmental Ethics [R.S. 42:1134(A)] and in accordance with legislation enacted during the 2001 Regular Legislative Session.

Title 52

ETHICS

Part I. Board of Ethics

Chapter 6. Advisory Opinions

§611. Persons to be Heard

A. At any time during the board's general agenda, opportunity to appear before the board shall be provided to persons who would like to comment on an item of the board's general agenda, excluding those items scheduled as adversarial public hearings.

B. Subject to the provisions of this Section, the chairman shall have the authority to regulate the course of testimony

in connection with an item before the board, including the authority to begin and terminate the consideration of an item before the board, to continue consideration of the item to another time or location, and to limit testimony which would be excessively cumulative or not related to the purpose of the matter; provided that nothing herein shall be construed to prevent the right of any citizen to speak at a public meeting.

C. Any person requesting to appear before the board, shall notify the executive secretary of their interest in the matter, and the group, organization or company they represent, if any, prior to the item being called by the board for consideration. Regarding testimony provided before the board, the chairman shall give first preference for speaking to the person submitting the item to the board and second preference to any person who is the subject of the matter submitted. Thereafter the chairman shall allow those persons who have notified the executive secretary of their wish to appear before the board in order of the receipt of said notification. The chairman may fix the maximum amount of time that each person provides testimony. The chairman shall allot the time in an equitable manner among those persons who are to be heard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 27:

Chapter 7. Complaints

§701. General Requirements

A. The board shall consider any signed sworn or non-sworn complaint from any elector concerning a violation of any law within its jurisdiction or the regulations or orders issued by the board. The complaint may be based on firsthand knowledge or on information and belief. Upon consideration of a complaint, the board may close the file, refer the complaint to investigation, or take such other action as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997), amended LR 27:

§704. Notification

A. The executive secretary shall mail by certified mail a certified copy of the vote and explanation of the matter to the object of the non-sworn complaint within 10 days after the vote occurs.

B. The executive secretary shall mail by certified mail a copy of the sworn complaint if one has been submitted to the board to the object of the sworn complaint and the complainant within 10 days after the sworn complaint is received and considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997), amended LR 27:

§708. Complaints; Action by the Board

A. The board shall have one year from the date upon which a sworn complaint is received to either dismiss the complaint or file formal charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997), amended LR 27:

Chapter 10. Hearings

§1005. Notice of Public Hearings

A. ...

B. Notice to the public shall be posted in the lobby of the office of the Ethics Administration Program and at such other place where the public hearing is to be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1294 (October 1997), amended LR 27:

Chapter 12. Penalties

§1202. Late Filing; Notice

A. The staff shall mail by certified mail a notice of delinquency within four business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer, that is due under any law within the board's jurisdiction which has not been timely filed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:627 (April 2000), amended LR 27:

Chapter 13. Records and Reports

§1305. Statements Filed Pursuant to Section 1120 of the Code

A. Statements filed pursuant to this Section contain:

1. the name and address of the elected official; and
2. a detailed description of the matter in question, including the description of the transaction to be voted upon as well as a description of the nature of the conflict, or potential conflict, and the reasons why despite the conflict the elected official is able to cast a vote that is fair, objective and in the public interest.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997), amended LR 27:

§1310. Notices Filed Pursuant to R.S. 18:1495.7(B)

A. Notices filed pursuant to this Section shall:

1. be filed within two business days after the issuance of a proclamation stating the object of a special session;
2. be in writing; and
3. contain:
 - a. The name of the legislator by or for whom the fundraising function is being given;
 - b. The date of the fundraising function;
 - c. The location of the fundraising function.

B. When filed by anyone other than a legislator, the notice shall also provide the name of the individual, group or organization giving or sponsoring the fundraising function.

C. The executive secretary shall maintain these statements suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 27:

§1313. Disclosure Forms Filed Pursuant to R.S. 27:96(A) and R.S. 27:261(A)

A. Disclosure forms filed pursuant to R.S. 27:96(A) and R.S. 27:261(A) shall:

1. be in writing and on a form provided by the board or a form which is substantially similar to the form provided by the Board of Ethics;
2. be filed no later than five days prior to the elected public official's performance;
3. contain:
 - a. the name and address of the elected public official;
 - b. the public position held by the elected public official;
 - c. the date, time and place of the performance;
 - d. the amount of compensation the elected public official has contracted to receive for the performance; and,
 - e. the identity of the person or entity providing the compensation;
4. include a copy of the contract.

B. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 27:

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1604. Registration and Reporting; Forms

A. - C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 25:24 (January 1999), LR 26:627 (April 2000), amended LR 27:

§1609. Contribution Limit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 26:1429 (July 2000), repealed LR 27:

§1610. Monthly Reporting by Political Committees

A. If a political committee, other than a principal or subsidiary campaign committee of a candidate, chooses to file campaign finance disclosure reports on a monthly basis, written notification must be provided to the supervisory committee no less than forty-five days prior to the next campaign finance disclosure report required by R.S. 18:1491.6 and R.S. to be filed by the political committee.

B. Such notification must be in writing on a form provided by the supervisory committee or a form which is substantially similar to the form provided by the supervisory committee, and be signed by the chairman of the political committee.

C. Upon receipt of the written notification from the political committee by the supervisory committee, the political committee shall file reports by the tenth of each month if the political committee accepted a contribution or some other receipt, or made an expenditure or some other disbursement during the preceding month. If the political

committee is required to file a monthly report, the political committee shall begin filing monthly reports no later than the next month after which notification is received by the supervisory committee.

D. If a political committee intends to cease filing reports on a monthly basis written notification must be provided to the supervisory committee prior to the due date of the next monthly report; thereafter, the political committee must file the next monthly report and then commence filing reports in accordance with R.S. 18:1491.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 27:

Chapter 19. Lobbyist Disclosure Act §1902. Filing Fees

A. A fee of \$110 shall be remitted to the board with each registration or supplemental registration required to be filed by a lobbyist.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:264 (April 1999), amended LR 27:

No preamble to the proposed rule changes has been prepared. Interested persons may direct their comments to R. Gray Sexton, Louisiana Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (225) 922-1400 or (800) 842-6630, until October 10, 2001.

If necessary, a public hearing will be held by the Louisiana Board of Ethics at 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, between October 25, 2001 and October 30, 2001.

R. Gray Sexton
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Advisory Opinions; Complaints; Hearings; Penalties; Records and Reports Campaign Finance Disclosure Act; Lobbyist Disclosure Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The amendments to the rules for the Board of Ethics are a result in part due to legislation enacted during the 2001 Regular Legislative Session. Implementation of the amendments will increase expenditures by \$280 for publishing the rules in the *Louisiana Register*, and decrease expenditures by \$708 in FY 01-02, \$829 in 02-03, and \$2,543 in FY 03-04 due to a decrease in the number of certified correspondence mailed to those persons who do not timely file reports and those persons that file non-sworn complaints. The costs and savings will be absorbed into the board's existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amendments to the rules for the Board of Ethics are not expected to have any significant fiscal impact on revenue collections of local governmental units. However, the amendments will increase self-generated funds of the agency by \$44,000 due to the registration fee for lobbyists increasing from \$10 to \$110.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons that register as lobbyists will be required to pay an annual registration fee of \$110.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

R. Gray Sexton
Ethics Administrator
0109#057

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook For School Administrators
Policy for Louisiana's Public Education Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The proposed changes more clearly explain and refine the existing policy as follows:

- 1) the process to be used to evaluate any instance of irregularity or unusual data results reported for indicators used to calculate a school's SPS; and
- 2) clarification of the process to be used for allocating rewards based on the findings of the irregular or unusual data.

**Title 28
EDUCATION**

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

**§901. School Approval Standards and Regulations
Bulletin 741**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000); LR 26:1260 (June, 2000), LR 26:1260-1261 (June, 2000), LR 27:

**The Louisiana School and District
Accountability System**

Data Collection and Data Verification

2.006.04 A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. (See Standard 2.006.18 for students

participating in out-of-level testing.) To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods and who has formal medical documentation for that period.

The Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data in the following respects:

For Attendance and Dropout data:

- The LDE shall identify a statistically valid sample of all schools included in the accountability system. All schools included in this sample shall be audited.
- Additionally, the LDE shall audit all schools included in the accountability system that have an Irregularity or Unusual Data Result (UDR), as defined below. The LDE may have an outside team conduct the audit.
- The findings of the audit shall be reported to the SBESE, the local district and local school. If the audit findings cannot be resolved, the Superintendent shall recommend to the SBESE, who shall approve the appropriate data to be used in the calculation of the School Performance Score.

For NRT and CRT data:

- If there is evidence of an Irregularity or UDR, the LEA shall be required to investigate using a process as determined by the LDE and approved by the SBESE. The LEA shall report the results of its investigation to the State Superintendent of Education.
- If the State Superintendent of Education determines that the results of the investigation do not sufficiently explain the data, s/he shall designate a team to visit the school and conduct its own investigation.
- If the gains are validated by the visit, the school will be designated a "pacesetter" school. If the gains cannot be validated, the State Superintendent of Education may initiate further action.

Reported Irregularities:

- The LDE will determine and the SBESE shall approve a process for the public to report possible Irregularities.
- Anonymous complaints may be investigated.
- All signed complaints shall be investigated.

Allocation of Rewards (See Standard 2.006.08)

- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
- If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

An Unusual Data Result (UDR) shall be defined as any CRT, NRT, attendance or dropout data which exceeds a parameter, or a range of parameters, which shall be determined by the LDE and approved by the SBESE. An Irregularity shall be defined as any data which appears to contradict results which are otherwise expected; unrealistic information; or data generated as a result of defective data collection or processing.

Rewards/Recognition

2.006.08 A school shall receive recognition and monetary awards (as appropriated by the Legislature) when it meets or surpasses its Growth Target and when it shows growth in the performance of students who are classified as high poverty and special education students. For Cycle 1 only, the SBESE shall determine distribution of rewards based on a school's

SPS and on the amount of growth (at least 0.1 points) shown in the performance of students who are classified as high poverty.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salaries or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Target.

Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data (See Standard 2.006.04) in the following respects for determining the allocation of rewards:

- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
- If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

Interested persons may submit written comments until 4:30 p.m., November 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741C Louisiana Handbook for School Administrators Policy for Louisiana's Public Education Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state governmental units. The proposed changes more clearly explain and refine the existing policy as it pertains to the process to be used to evaluate any instance of irregular or unusual data results reported for the indicators used to calculate a school's SPS, and clarification of the process to be used for allocating rewards based on the findings of the irregular or unusual data.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0109#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel Full-Time/Part-Time Noncertified School Personnel (LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed rule extends until July 1, 2002, the interim emergency policy for hiring full-time/part-time noncertified school personnel. There is no change proposed in the content of the policy which allows school systems to employ noncertified teachers when there is no certified teacher available.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:

Interim Emergency Policy for Hiring

Full-Time/Part-Time Noncertified School Personnel

Full-time/part-time noncertified school personnel, excluding speech, language, and hearing specialists, may be employed by local public education agencies experiencing extreme difficulty in employing certified teachers for the classroom, provided that the following documentation is submitted to the Department of Education:

- A signed affidavit by the local superintendent that the position could not be filled by a certified teacher,
- Submission of names, educational background, subject matter and grade levels being taught as an addendum to the annual School Report.

A. Individuals employed under this policy must

1. Hold a minimum of a baccalaureate degree from a regionally accredited institution;
2. Take all appropriate areas of the PRAXIS/NTE at the earliest date that it is offered during the first year of employment and in all appropriate areas at least once each year during subsequent years of employment; and
3. Earn six semester hours of college course work each year as indicated below:

- a. Teachers who have not completed a teacher education program must

i. Within the first year of employment and prior to consideration for re-employment the second year, be officially admitted to a teacher education program; obtain a prescription or outline of course work required for certification; and achieve the required scores on the PRAXIS Pre-Professional Skills Tests in Reading, Writing, and Mathematics. The appropriate score(s) on the Communication skills and/or General Knowledge portions of the NTE may be substitutes only if the test(s) was (were) taken prior to September 1999.

ii. Prior to consideration for re-employment each year, complete at least six semester hours of college course work as prescribed by the college or university to complete a teacher education program.

b. Teachers who have completed a teacher education program but have not achieved the required scores on all parts of the PRAXIS/NTE prior to consideration for re-employment each year, must earn six semester hours appropriate to the area of the PRAXIS/NTE (Pre-Professional Skills Tests in Reading, Writing, and Mathematics, the Principles of Learning and Teaching K-6 or 7-12, and the subject assessments/specialty area tests) in which the score was not achieved. Appropriate scores achieved on portions of the NTE that were formerly required may be used, provided the score was achieved prior to the date the test(s) was (were) discontinued for use in Louisiana.

i. Successful completion of a university sponsored seminar, workshop or course specially designed for preparing for the PRAXIS/NTE may substitute once for three semester hours of the required course work. Documentation from the university must be provided to verify participation.

B. The following documentation, as appropriate, shall be kept on file in the LEA's Superintendent's/Personnel Office.

1. Official transcripts showing a minimum of a baccalaureate degree from a regionally accredited institution.

2. Documentation that the teacher has been officially admitted to a teacher education program, if applicable.

3. An outline by the college or university of the course work required for certification, or an outline of courses to help achieve the appropriate PRAXIS/NTE scores for persons who have completed a teacher education program.

4. Official transcripts showing successful completion of the six semester hours as prescribed by the college or university since the last employment under this policy.

5. Documentation to verify one-time participation in a university sponsored or state approved seminar/workshop/course for PRAXIS/NTE preparation for teachers who have completed a teacher education program.

6. An original PRAXIS/NTE score card showing the PRAXIS/NTE has been taken in all appropriate areas since the last employment under this policy.

7. Documentation that efforts for recruitment of certified teachers have been made (e.g. newspaper advertisements, letters, contacts with colleges, and so forth).

C. These individuals shall be employed at a salary that is based on the effective State salary schedule for a beginning teacher with a baccalaureate degree and a certificate with zero years of experience. Local salary supplements are optional.

D. The total number of years a person may be employed according to the provisions of this policy is five years.

E. To be eligible for re-employment under this policy, a teacher who has not met the requirement of having earned six semester hours of college credit or who has not taken the PRAXIS/NTE must meet one or more of the following conditions:

1. Medical Excuse. When serious medical problems of the teacher or immediate family in the same household exist, a doctor's statement is required with a letter of assurance from the teacher that six semester hours will be earned prior to the beginning of the next school year.

2. Required Courses not Available. A letter of verification from area universities is required stating that the required courses are not being offered.

3. Change of School, Parish, or School System. Re-employment is permitted only if the change is not part of a continuous pattern.

4. Change of Certification Areas. Re-employment is permitted with assurance that the requirements for continued employment under this policy will be met.

(These are the only conditions that may be used. Documentation that supports the above condition must be maintained in the teacher's personnel file.)

This policy does not apply to university laboratory schools.

Note: This interim emergency policy will remain in effect until July 1, 2002. Revised 7/26/01

Interested persons may submit comments until 4:30 p.m., November 9, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 746C Louisiana Standards for
State Certification of School PersonnelC Full-Time/Part-
Time Noncertified School Personnel**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The extension of this policy will allow local school systems to continue to employ noncertified school personnel when there is no certified teacher available.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The extension of this policy allows school systems to fill vacancies which exist due to the unavailability of certified teachers.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0109#029

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Emissions of Nitrogen Oxides Control
(LAC 33:III.2201)(AQ215)**

(Editor's Note: A portion of Section 2201 is being repromulgated to correct conversion errors. The full text of this Notice of Intent may be viewed in the August 20, 2001 edition of the *Louisiana Register* on pages 1406-1416.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Air Quality regulations, LAC 33:III.Chapter 22 (Log #AQ215).

This rule establishes requirements for reducing emissions of nitrogen oxides (NO_x) to allow the Baton Rouge nonattainment area to come into compliance with the National Ambient Air Quality Standard for ozone by May of 2005. Five parishes are defined by EPA as nonattainment. They are the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Livingston is included even though it has no NO_x emissions sources greater than 50 tons per year (tpy). Modeling has demonstrated that the nonattainment area cannot be brought into attainment without including certain outlying parishes. Therefore, the parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana also have been included in the rule. The rule establishes emission factors for reducing emissions from boilers, heaters, furnaces, turbines, and internal combustion engines at affected facilities. The rule also establishes requirements for permits, compliance, recordkeeping and reporting. During the summer of 2000, Louisiana experienced many days of elevated ozone levels, especially in the Baton Rouge area, as a number of the monitored readings exceeded the one-hour standard. In addition, the five-parish Baton Rouge ozone nonattainment area did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Urban Airshed Modeling (UAM) indicates that a reduction in NO_x emissions and further reduction in VOC emissions are required to lower ozone levels. Therefore, it is necessary to identify and promulgate regulations to implement emission reduction controls. LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the NAAQS. This rule to control emissions of NO_x is only one measure identified to reduce emissions. The basis and rationale for this rule are to protect air quality in Louisiana and comply with the NAAQS for ozone.

This proposed rule meets an exception listed in R.S. 30:2019.D.2 and R.S.49:953.G.3; therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air Quality

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Greater Baton Rouge NO_x Control Area

* * *

[See Proposed Text in A - E.1]

a. An owner or operator who elects to use a facility-wide averaging plan for compliance shall establish an emission limit for each applicable affected point source at the source such that if all affected point sources were operated at their averaging capacity, the cumulative emission rate of pounds NO_x/MMBtu from these point sources would not exceed the facility-wide emission limit. The equations below shall be used to calculate the cumulative emission rate and the facility-wide emission limit.

$$FL = \sum_{i=1}^N (R_{li} \times f_i) \quad \text{Equation E-1}$$

where:

$$f_i = HI_i / \sum_{i=1}^N HI_i \quad \text{Equation E-2}$$

$$\sum_{i=1}^N (R_{ai} \times f_i) \leq FL \quad \text{Equation E-3}$$

where:

f_i = fraction of total system averaging capacity for point source i

HI_i = the averaging capacity of each point source (MMBtu/hour)

i = each point source in the averaging group

N = the total number of point sources in the averaging group

R_{ai} = the limit assigned by the owner to each point source in the averaging plan (pound NO_x/MMBtu)

R_{li} = the limit for each point source from Subsection D of this Section (pound NO_x/MMBtu)

FL = facility-wide emission limit (pound NO_x/MMBtu)

* * *

[See Proposed Text in E.1.b - J.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:

A public hearing will be held on September 25, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to

participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ215. Such comments must be received no later than October 2, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ215.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0109#064

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Waste Tire Fee Collection (LAC 33:VII.105)(SW032)

(Editor's Note: Appendix C. Waste Tire Fee Collection Schedule of this Chapter is being deleted in its entirety.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.10505, 10507, 10519, 10525, 10533, and 10535 (Log #SW032).

The proposed rule will modify the current waste tire fee collection methodology from \$2 per tire weighing less than 100 pounds and \$1 per 20 pounds for tires weighing over 100 pounds to \$2 per passenger/light truck tires, \$5 per medium truck tires, and \$10 per off-road tire. Appendix C. Waste Tire Fee Collection Schedule of Chapter 105 is being deleted in its entirety. It is extremely difficult for tire retailers to collect, report, and remit the waste tire fee with the current 22 categories. The proposed rule reduces the number of categories to three. It also clarifies and cleans up the waste tire regulation revisions of December 20, 2000. The basis and rationale of this rule are to comply with Act 623 of the 2001 Regular Legislative Session.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact

on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33 ENVIRONMENTAL QUALITY Part VII. Solid Waste Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

* * *

[See Prior Text]

Medium Truck Tire Ca tire weighing one hundred pounds or more and normally used on semi-trailers, truck-tractor, semi-trailer combinations or other like vehicles used primarily to commercially transport persons or property on the roads of this state or any other vehicle regularly used on the roads of this state.

* * *

[See Prior Text]

Off-Road Tire Ca tire weighing one hundred pounds or more and that is normally used on off-road vehicles.

* * *

[See Prior Text]

Passenger/Light Truck/Small Farm Service Tire Ca tire weighing less than one hundred pounds and normally used on automobile, pickup trucks, sport utility vehicles, front steer tractors, and farm implement service vehicles.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:

§10507. Exemptions

A. Any persons, facilities, or other entities subject to these regulations may petition the department for exemption from these regulations or certain portions thereof in accordance with LAC 33:VII.307.

B. A vehicle operated by a local governmental body that is engaged in the collection of waste tires that are located on governmental property or on road rights of way with the tires to be taken to an authorized waste tire collection center or permitted processing facility may be granted an exemption to the transporter authorization application fee and the transporter maintenance and monitoring fee specified in LAC 33:VII.10535. A maximum of one vehicle is allowed for each governmental body under this exemption. In order to be recognized as exempt under this Subsection, the local governmental body shall submit a transporter notification form to the administrative authority indicating the governmental body's desire to take advantage of this exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), LR 27:

§10519. Standards and Responsibilities of Generators of Waste Tires

* * *

[See Prior Text in A - B]

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each new passenger/light truck tire, \$5 waste tire fee upon the sale of each new medium truck tire, and \$10 waste tire fee upon the sale of each new off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires. "Tire dealers" includes any dealer selling new tires in Louisiana.

D. All tire dealers shall remit the waste tire fee, as specified in LAC 33:VII.10535.B and C, to the department on a monthly basis on or before the twentieth day following the month covered. The fee shall be submitted to the Office of Management and Finance, Financial Services Division, along with the Monthly Waste Tire Fee Report Form WT01 obtained from the Office of Management and Finance, Financial Services Division. Until December 31, 2001, the fee shall be reported on Form WT01 in the following tire categories: passenger/light truck, medium truck, and off-road. On January 1, 2002, the fee shall be reported on Form WT02. Every tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be open for inspection by the administrative authority at all reasonable hours.

* * *

[See Prior Text in E - E.1]

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each new tire. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every new tire sold, unless the purchaser elects to retain the waste tire."

* * *

[See Prior Text in F - I]

1. the storage is solely for the purpose of accumulating such quantities as are necessary to facilitate proper processing;

2. documentation supporting the storage period and the quantity required for proper processing are available at the generator's facility for department inspection; and

3. no more than 150 tires shall be stored at the generator's place of business at one time.

* * *

[See Prior Text in J - O]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:

§10525. Standards and Responsibilities of Waste Tire Processors

* * *

[See Prior Text in A - D.14]

E. Mobile Processors

1. Only standard permitted processors shall be eligible to apply for mobile processor authorization certificates. Any mobile processor without a standard permit whose certificate expires after the effective date of these regulations may have the certificate renewed for a one-time period of 365 days upon request of the mobile processor.

* * *

[See Prior Text in E.2 - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:

§10533. Manifest System

* * *

[See Prior Text in A - C]

D. Completed manifests shall be maintained by all parties for a minimum of three years and shall be made available for audit at the place of business during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:

§10535. Fees and Fund Disbursement

* * *

[See Prior Text in A - A.8]

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each new tire sold in Louisiana, to be collected by the tire dealer from the purchaser at the time of retail sale. The fee shall be \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires.

* * *

[See Prior Text in C - D.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:

A public hearing will be held on October 25, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by SW032. Such comments must be received no later than November 1, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of SW032.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE:**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on governmental revenues as a result of this measure. LDEQ anticipates that this regulation will be revenue neutral. LDEQ has no definitive information as to the number of various types of tires. However, using actual number of tires sold in Louisiana each year (3.5 million) and EPA estimates as to the percentage of these tires that are truck tires (17%) and the percentage that are off-road tires (1%), LDEQ has estimated that total revenue generated pursuant to this regulation should approximate the current revenue generated from existing fees, or roughly \$9 million annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs to directly affected persons or non-governmental groups. There will be a reduction in paperwork as a result of reducing the waste tire fee collection categories from 22 to 3, which should result in a small savings to tire dealers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment as the proposed rule would apply equally to all retailers.

James H. Brent, Ph.D.
Assistant Secretary
0109#045

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Certification Requirements for Basic Correctional Officers
(LAC 22:III.4703)**

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND
LAW ENFORCEMENT
Part III. Commission on Law Enforcement and
Administration of Criminal Justice**

**Subpart 4. Peace Officers
Chapter 47. Standards and Training
§4703. Basic Certification**

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification.

1. ...

2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is required (Effective March 26, 2001).

b. Correctional peace officers with Level 2 certification must meet the POST firearms requirements for annual requalification as outlined in §4721.B and §4721.C.

A.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 27:

Interested persons may submit written comments on this proposed rule no later than November 1, 2001, at 5 p.m. to Aubrey Futrell, POST Program Manager, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Certification Requirements for Basic
Correctional Officers**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated that implementation of the proposed rule will not cause an increase in expenditures. Sufficient funds are available in the POST budget to cover any possible expenditure.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that implementation of the proposed rule will not increase revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

It is estimated that implementation of the proposed rule will have little or no effect on directly affected persons or non-governmental groups. The adoption of a passing standard for firearm certification of correctional peace officers should reduce the liability of both the officer and his agency.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

If a correctional peace officer is unable to pass the firearms test, he/she could not be certified as Level 2 Correctional peace officer but could be employed in another capacity.

Michael A. Ranatza
Executive Director
0109#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Prescriptions (LAC 46:LIII.1109)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to repeal the entire contents of the current referenced section and adopt the proposed rule.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 11. Pharmacies

§1109. Prescriptions

A. Definitions. As used in this Section, the following terms shall have the meaning ascribed to them in this Subsection.

Electronic Prescription Ca prescription transmitted in electronic form.

Practice Affiliation Ca practice relationship, collaboration, or practice under the supervision of a physician licensed to practice medicine.

Prescription or Prescription Drug Order Can order from a practitioner authorized by law to prescribe for a drug or device that is patient-specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is to be preserved on file as required by law or regulation (R.S. 37:1164.44).

B. Written Prescriptions. A written prescription shall conform to the following format.

1. The prescription form shall not be less than 4 inches by 5 inches.

2. The prescription form shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and, if applicable, DEA registration number. In the event that multiple practitioners are identified on the prescription form, the authorizing prescriber's specific identity shall be clear and unambiguous. This identification may be indicated by any means, including, but not limited to, a marked check box next to, or circling the authorizing prescriber's printed name.

3. The prescription form shall clearly indicate the authorized prescriber's practice affiliation, if the prescriber is a non-physician. The affiliated physician's name, address, and telephone number shall appear on the prescription form.

4. No prescription form shall contain more than four prescription drug orders. Each prescription drug order on the form shall provide the following:

a. check box labeled "Dispense as Written," or "DAW", or both;

b. the number of refills, if any.

5. Forms used by pharmacists to record telephoned or transferred prescriptions are exempt from the format requirements listed above.

6. Equivalent Drug Product Interchange

a. The pharmacist shall not select an equivalent drug product when the prescriber handwrites a mark in the check box labeled "Dispense as Written", or "DAW," or both, and personally handwrites his signature on a printed single signature line. Otherwise, the pharmacist may select an equivalent drug product, provided the patient has been informed of, and has consented to, the proposed cost saving interchange.

b. In the event an authorized prescriber has indicated that an equivalent drug product interchange is prohibited by handwriting a mark in the check box labeled "Dispense as Written", or "DAW," or both, then a non-licensed, non-certified, or non-registered agent of the pharmacy shall not inquire as to a patient's desire for an equivalent drug product interchange.

c. For prescriptions reimbursable by Medicaid or Medicare, the authorized prescriber may only prohibit equivalent drug product interchange by handwriting the words "brand necessary" or "brand medically necessary" on the face of the prescription order or on a sheet attached to the prescription order.

C. Oral Prescriptions

1. Upon the receipt of an oral prescription from an authorized prescriber, the pharmacist shall reduce the order to a written form prior to dispensing the medication.

2. The pharmacist shall not select an equivalent drug product when the authorized prescriber or his agent has verbally indicated a specific brand name drug or product is ordered.

3. The pharmacist may select an equivalent drug product if the authorized prescriber or his agent has given his approval to the equivalent drug interchange. The patient shall be informed of, and consent to, the proposed cost saving interchange.

D. Electronic Prescriptions

1. The prescription shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and, if applicable, DEA registration number.

2. The prescription form shall clearly indicate the authorized prescriber's practice affiliation, if the prescriber is a non-physician. The affiliated physician's name, address, and telephone number shall appear on the prescription form.

3. Unless the prescription clearly indicates "Dispense as Written", or "DAW", or both, equivalent drug product interchange is permissible.

4. Facsimile Prescription

a. The receiving facsimile machine of a prescription transmitted by facsimile shall be located within the pharmacy department.

b. The prescription transmitted by facsimile shall be on a non-fading, legible medium.

c. All requirements applicable to written prescriptions in Subsection B shall apply to facsimile prescriptions except §1109.B.6.c.

E. Exclusion. The provisions of this section shall not apply to medical orders written for patients in facilities licensed by the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 27:

Interested persons may submit written comments to Malcolm J. Broussard, Louisiana Board of Pharmacy, 5615 Corporate Boulevard, Suite 8-E, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, October 25, 2001, at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for receipt of all written comments is 4 p.m. that day.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Malcolm J. Broussard, RPh
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Prescriptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to the agency to implement the proposed rule, which consists of printing and distributing the rule to the 2,000 holders of the *Louisiana Board of Pharmacy Law Book*, is estimated to be \$4,400 in FY 01-02. The agency has sufficient self-generated funds budgeted and available to implement this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board is unable to discern any effect on revenue collections by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only persons directly affected by this proposed rule are licensed medical practitioners authorized by law to prescribe legend drugs and devices. To the extent that prescribers purchase their prescription pads, this proposed rule may change the format of some of the pads, but will not have any measurable impact on the cost of the pads. The board is unable to determine any other impact on income or receipts as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The board is unable to discern any effects on competition or employment.

Malcolm J. Broussard, RPh
Executive Director
0109#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Addictive Disorders

OAD Resource Allocation Formula

The purpose for a statewide resource allocation formula is to provide a rational, objective, and fair basis to use in evaluating equitable access to services by persons in all areas of the state. The intent is to use the formula as a management tool to increase service availability to residents living in regions with the least access. Given the limited availability of services in Louisiana, no region is over-served, thus it is important to bring up the under-served regions without reducing the limited service infrastructure anywhere else in the state.

A Resource Allocation Task Force representing all regions of the state was convened in Baton Rouge in August, 1999 to discuss options and to develop a consensus list of formula elements. From a long list of potential data elements, approximately 40 separate recommendations were made by task force members. Taking the areas of strongest consensus, the recommendations were analyzed and grouped, representative measures were chosen for each group, and weights were chosen to represent the relative importance of each element. The results comprise the elements and weights of the formula as follows.

Formula Elements

PovertyC20 Percent. Poverty was the element with the most support, with all 10 regions recommending inclusion. This is measured as the number of persons residing in the region who have incomes below the poverty level as defined by the U.S. Census. Poverty is a barrier to service access and is also a risk factor associated with substance abuse problems.

PopulationC20 Percent. The total population of persons from 15 to 34 years of age living in the region. The effect of this measure will be to give emphasis on the population density and the number of people in the age range of most potential service recipients.

Treatment NeedC 20 Percent. This is the estimated number of adults needing alcohol or drug treatment in each region. These estimates were developed by researchers at the Research Triangle Institute under contract with the state. This element is important because it is a direct measure of alcohol and drug services need.

ArrestsC15 Percent. Arrest recommendations had more variation than other domains. Recommendations varied as to juvenile versus adult, alcohol versus drug, property and violence versus alcohol and drug offenses. Arrests are thought to reflect a dimension of equity that is not well reflected in other elements. The chosen element is the total number of adult and juvenile arrests for alcohol and drug offenses.

RuralityC15 Percent. This element is closely related to transportation deficits, which were articulated as particular problems for rural areas. The actual measure is the number of persons living in rural places. This is defined by the U.S. Census as places with less than 2,500 residents.

Teenage MothersC10 Percent. From birth certificate data provided by the Vital Records Registry has been obtained the number of persons below 20 years of age who gave birth. These young families have multiple risk factors and service access barriers.

The following data for the formula are obtained from state and federal government agencies, and from a documented research study of the Research Triangle Institute (Round 1 State Treatment Needs Assessment Studies). The most available data available is used at the time the formula is compiled; the data will be updated only when the entire formula is reconsidered on an annual or biennial basis. It is understood that each type of data used in the formula has limitations and weaknesses. Some of the elements are more recent than others, some may not be faithfully reported in all regions by the various agency reporting systems, one is based on a survey, which has limitations, and some are indirect indicators instead of direct measures. The use of multiple elements mitigates the influence of any one element and the use of public data makes this an objective and rational system that treats all regions fairly.

Formula Tables

Regional Data						
Region	Poverty	Population Age15-34	Alcohol & Drug Treatment Need	Alcohol & Drug Arrests	Rurality	Teenage Parents
1	167,521	192,257	52,223	8,984	7,609	1,943
2	108,353	190,521	36,626	7,194	161,060	1,319
3	83,028	120,700	22,574	4,026	123,889	1,006
4	131,733	159,291	39,741	4,882	230,395	1,551
5	51,416	80,167	22,036	4,469	93,337	771
6	73,896	103,731	24,074	4,122	167,011	959
7	120,692	151,082	34,286	7,276	179,874	1,419
8	95,346	111,622	22,134	3,786	161,800	1,150
9	72,190	107,999	36,287	5,341	216,287	1,067
10	62,827	145,880	43,810	4,759	6,673	1,013
Total	967,002	1,363,250	333,791	54,839	1,347,935	12,198

The final step in constructing the formula is to convert the data into percentages and to adjust each percentage according to the weight for that element. The resulting

formula table as shown below indicates in the far right column the percent of total state service resources that should be available to the residents of each region.

FY 2001 Resource Allocation Formula							
Weights	20%	20%	20%	15%	15%	10%	**
Region	Poverty	Population Age 15-34	Alcohol & Drug Treatment Need	Alcohol & Drug Arrests	Rurality	Teenage Parents	Regional Formula Allocation
1	17.3%	14.1%	15.6%	16.4%	0.6%	15.9%	13.5%
2	11.2%	14.0%	11.0%	13.1%	11.9%	10.8%	12.1%
3	8.6%	8.9%	6.8%	7.3%	9.2%	8.2%	8.1%
4	13.6%	11.7%	11.9%	8.9%	17.1%	12.7%	12.6%
5	5.3%	5.9%	6.6%	8.1%	6.9%	6.3%	6.5%
6	7.6%	7.6%	7.2%	7.5%	12.4%	7.9%	8.3%
7	12.5%	11.1%	10.3%	13.3%	13.3%	11.6%	11.9%
8	9.9%	8.2%	6.6%	6.9%	12.0%	9.4%	8.7%
9	7.5%	7.9%	10.9%	9.7%	16.0%	8.7%	10.0%
10	6.5%	10.7%	13.1%	8.7%	0.5%	8.3%	8.3%
Total	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Formula Applications

The formula provides a measurement tool to assist in working toward equitable access to services in the state. Application of this method requires policy decisions concerning various categories of program funding. For the coming year the following policy decisions are in effect and they will be reconsidered periodically.

Hold Harmless. Funding will not be reduced for any region in order to shift funds to under-served regions. The reason for this policy is to protect the state's investment in programs that have been built up over time. Also, it is recognized that many programs provide services to clients who are residents of other regions.

Dollars Follow Clients. Costs will be tracked to the region of residence of clients and this will be the primary comparison made to determine equitable access to services. This is a distinctly different method than tracking expenditures by service location.

Drug Courts and Cross-Regional Programs. The "Dollars Follow Clients" policy applies to all regional programs included under formula funding and specifically includes Drug Courts and programs that are cross-regional in nature.

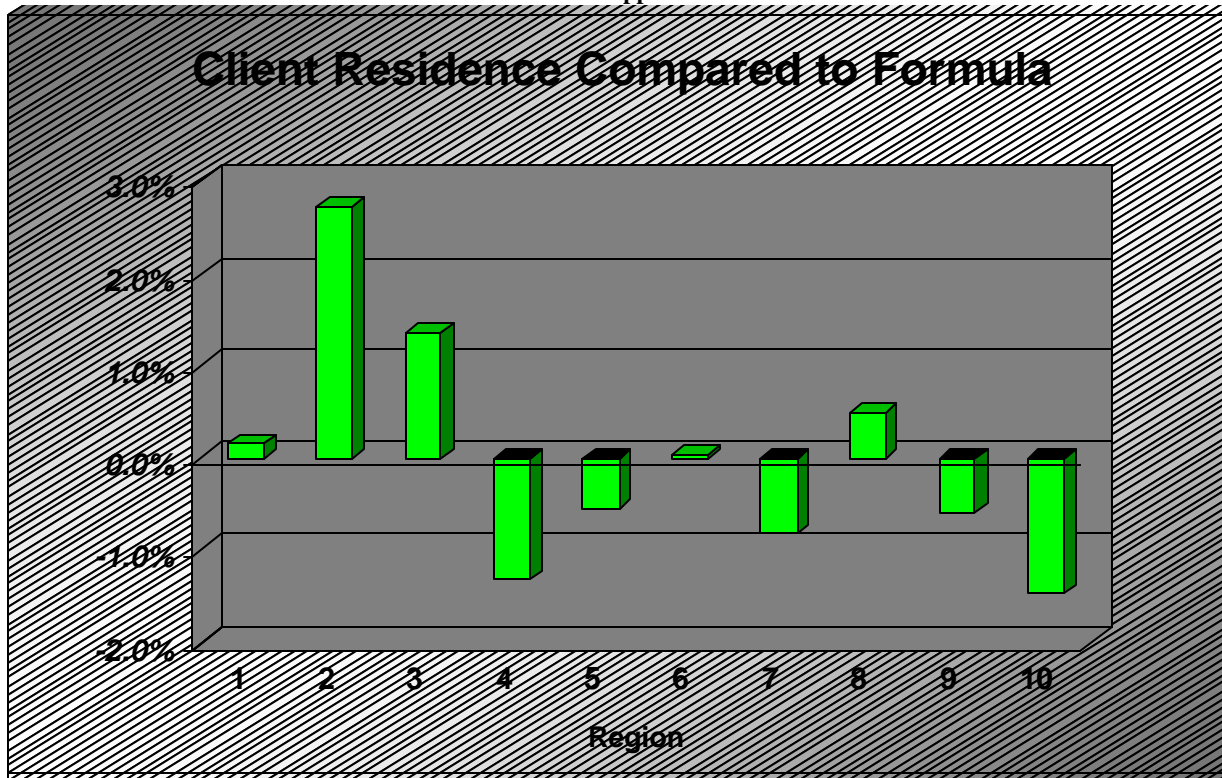
Categoricals and Statewides. The "Dollars Follow Clients" policy does not apply to categorical federal grant funded programs or other programs that are statewide in nature. Funding for both of these types of programs is not included in formula funding comparisons.

Expand Toward Equity. The primary use of the formula will be to identify under-served regions of the state and to target them with new or underutilized funds. During budget cycles in which there is a reduction in overall state funding available, the "hold harmless" policy means that the "dollars follow clients" policy will not be followed. Instead, the location of service expenditures will be the primary comparison method to plan for resource allocation.

Appendix A Formula Comparisons Using Current Budget Expenditures and Residents Utilization				
Region	Current Budget Expenditures	Adjusted Budget Based on Client Residence	Formula	Over/(Under) Formula (Res)
1	\$5,259,422	\$5,562,819	\$5,500,480	\$62,339
2	\$4,914,477	\$6,032,089	\$4,930,060	\$1,102,029
3	\$3,913,825	\$3,885,346	\$3,300,288	\$585,058
4	\$3,265,333	\$4,592,650	\$5,133,781	(\$541,131)
5	\$2,265,151	\$2,390,732	\$2,648,379	(\$257,647)
6	\$5,299,292	\$3,396,466	\$3,381,776	\$14,690
7	\$5,241,339	\$4,539,443	\$4,848,571	(\$309,128)
8	\$3,071,759	\$3,734,957	\$3,544,754	\$190,203
9	\$5,119,743	\$3,826,785	\$4,074,429	(\$247,644)
10	\$2,393,953	\$2,783,007	\$3,381,776	(\$598,769)
Total	\$40,744,294	\$40,744,294	\$40,744,294	(\$0)

Region	Current % of Budget Expenditures	% Based on Client Residence	% Per Formula	Over/(Under) Formula(Res)
1	12.9%	13.7%	13.5%	0.2%
2	12.1%	14.8%	12.1%	2.7%
3	9.6%	9.5%	8.1%	1.4%
4	8.0%	11.3%	12.6%	-1.3%
5	5.6%	5.9%	6.5%	-0.6%
6	13.0%	8.3%	8.3%	0.0%
7	12.9%	11.1%	11.9%	-0.8%
8	7.5%	9.2%	8.7%	0.5%
9	12.6%	9.4%	10.0%	-0.6%
10	5.9%	6.8%	8.3%	-1.5%
Total	100.0%	100.0%	100.0%	0.0%

Appendix B



Interested persons may submit comments on the proposed changes to Michael Duffy, Acting Assistant Secretary, Office for Addictive Disorders, Department of Health and Hospitals, PO Box 2790, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed rule. The deadline for all written comments is 4:30 pm on Thursday, October 19, 2001.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: OAD Resource Allocation Formula**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs to state or local governmental units other than printing costs, which are estimated to be \$120 in FY 2001/02.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Utilization of the formula will allow the Office for Addictive Disorders to identify underserved regions of the state and to target those regions with new or underutilized funds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Michael Duffy
Acting Assistant Secretary
0109#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Organ Procurement Agency Coordination

The Department of Health and Hospitals, Office of the Secretary, proposes to adopt the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Anatomical Gift Act, R.S. 17:2354.4(J), and 42 CFR Part 482.45. This proposed rule is being submitted to fulfill the secretary's responsibility to establish rules to implement appropriate procedures to facilitate proper coordination among hospitals, the Louisiana-designated organ procurement organization, and tissue and eye banks.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

Definitions

Tissue Bank or Storage Facility Ca nonprofit facility licensed or approved under the laws of any state for storage of human bodies or parts thereof for use in transplantation to individuals, medical education, research, or therapy.

Department Cthe Department of Health and Hospitals.

Hospital Ca hospital licensed, accredited, or approved under the laws of any state and includes a hospital operated by the U.S. government, a state, or subdivision thereof, although not required to be licensed under state laws.

Organ Procurement Organization (OPO) Can organization that is designated by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), formerly Health Care Financing Administration, or its successor, to perform or coordinate the performance of surgical recovery, preservation, and transportation of organs, and that maintains a system for locating perspective recipients for available organ transplantation.

Louisiana/Designated Organ Procurement Organization Cthe organ procurement organization designated by CMS and recognized by the secretary of the Department of Health and Hospitals of Louisiana under R.S.17:2354.4(J).

A *Designated Requestor* Can individual who has completed a course offered or approved by the OPO and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families and requesting organ and tissue donation.

Conditions for Participation

In order to insure that the family of each potential donor is informed of its options to donate organs, tissues, or eyes or to decline to donate, the department adopts the procedures specified in the federally approved Medicare Conditions for Participation for Hospitals (42 CFR Part 482.45) to be followed by all hospitals in Louisiana. The individual designated by the hospital to initiate the request to the family must be an organ procurement representative or a designated requestor.

The Department of Health and Hospitals shall recognize the federally designated organ procurement organization. A letter by the CMS shall be presented to the secretary of the Department of Health and Hospitals upon certification of the organ procurement organization. Any changes between certification periods shall be reported to the secretary within 30 working days.

The secretary shall compile and disseminate a list of those nonprofit organ and tissue banks that, in addition to the Louisiana designated OPO, shall be authorized to receive donations under this section. The organ procurement organization shall be authorized upon designation by the Health Care Finance Administration. The nonprofit tissue bank or eye bank must submit copies of the following to the Secretary for authorization:

1. Proof that a nonprofit tissue bank or eye bank registered in this state or any state as a 501-C-3 charitable organization with no direct ties to any for-profit tissue processor unless an approved nonprofit vehicle is unavailable.

2. A copy of the current accreditation letter by the American Association of Tissue Banking for those nonprofit tissue banks, and a current accreditation letter by the Eye Banks of America Association for the nonprofit eye banks.

Under the Medicare Conditions for Participation for Hospitals, the following procedures are to be implemented to facilitate proper coordination among hospitals, Louisiana designated OPO, and tissue and eye banks:

1. All hospitals will incorporate an agreement with the Louisiana designated OPO, under which it must notify in a timely manner, the OPO of individuals whose death is imminent or who have died in the hospital.

2. The OPO will determine medical suitability for organ donation under this agreement.

3. The hospital will incorporate an agreement with at least one nonprofit tissue bank and at least one non-profit eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes, as may be appropriate to assure that all useful tissues and eyes are obtained from potential donors, insofar as such an agreement does not interfere with organ procurement.

4. The Louisiana designated OPO will refer all appropriate referrals to the appropriate nonprofit tissue or eye bank which the OPO and hospital have incorporated an agreement with for those purposes.

Interested persons may submit written comments for 30 days from the date of this publication to Patricia A. Faxon, Program Manager, P.O. Box 629, Baton Rouge, LA 70821. She is responsible for responding to inquiries.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Organ Procurement Agency
Coordination**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the adoption of this rule will result in implementation costs for publication of approximately \$120 for FY 2001, with no additional costs in any other year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated 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 estimated costs and/or economic benefits to directly affected persons or non-governmental groups. This proposed rule clarifies that there should be a clear separation from the "nonprofit" tissue recovery program and the for-profit company with which it has a business relationship. It should not have an effect, as it merely puts in rule what is current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

David W. Hood
Secretary
0109#060

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Hospital ProgramCOutpatient Surgery
ServicesCReimbursement Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in December of 1985 that established the criteria and reimbursement for certain surgical procedures when performed in an outpatient setting. Reimbursement for these surgical procedures was set at a flat fee per service if the procedure code is included in one of the four Medicaid established payment groups. Reimbursement for those surgical procedures not included in the Medicaid outpatient

surgery list was not changed from the established methodology (*Louisiana Register*, Volume 11, Number 12). A Rule was subsequently adopted in January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges, except for those outpatient surgeries subject to the Medicaid outpatient surgery list (*Louisiana Register*, Volume 22, Number 1).

As a result of a budgetary shortfall, the bureau assigned the highest flat fee in the four Medicaid established payment groups for outpatient surgery to those surgical procedures that are not included in the Medicaid outpatient surgery list (*Louisiana Register*, Volume 26, Number 12).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rates paid to hospitals for outpatient surgery services (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement paid to hospitals for those outpatient surgical procedures included in the four payment groups on the Medicaid outpatient surgery list to the following rates:

Group 1	\$444.25
Group 2	\$528.92
Group 3	\$569.32
Group 4	\$646.25

Reimbursement paid to hospitals for those surgical procedures not included on the Medicaid outpatient surgery list shall be the highest flat fee assigned to the outpatient surgery payment groups.

Implementation of this proposed rule shall be contingent upon the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143) as set forth in the Appropriations Act of the 2001 Regular Session of the Louisiana Legislature and the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hospital ProgramC Outpatient Surgery
ServicesC Reimbursement Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$4,101,050 for SFY 2001-02, \$4,224,020 for SFY 2002-03, and \$4,350,741 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$9,735,070 for SFY 2001-02, \$10,027,060 for SFY 2002-03, and \$10,327,871 for SFY 2003-04.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will increase payments to hospitals for outpatient surgery services provided to Medicaid recipients by approximately \$13,836,000 for SFY 2001-02, \$14,251,080 for SFY 2002-03, and \$14,678,612 for SFY 2003-04.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Implementation of this proposed rule could result in some outpatient surgery providers remaining in the Medicaid program and continuing to provide outpatient surgery services and could possibly increase participation in the program.

Ben A. Bearden
Director
0109#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Inpatient Psychiatric ServicesC Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in August 2000 to restore the 7 percent reduction previously made to the reimbursement rates for inpatient psychiatric services (*Louisiana Register*, Volume 26, Number 8).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rate for inpatient psychiatric services provided to recipients up to the age of 21 (*Louisiana Register*, Volume 27, Number 7). The Bureau now proposes to adopt a rule to continue the provisions contained in the July 3, 2001 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the current per diem rate for inpatient psychiatric services by \$50 to \$394.85 for services provided to recipients up to the age of 21.

Implementation of this proposed rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Inpatient Psychiatric Services
Reimbursement Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$444,660 for SFY 2001-02, \$457,938 for SFY 2002-03, and \$471,676 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 for the states administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately

\$1,055,460 for SFY 2001-02, \$1,087,062 for SFY 2002-03, and \$1,119,674 for SFY 2003-04.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to increase the current per diem rate for inpatient psychiatric services by \$50 from \$344.85 to \$394.85 for services provided to Medicaid recipients up to the age of 21.

Implementation of this proposed rule will increase payments for inpatient psychiatric services provided to Medicaid recipients up to the age of 21 by approximately \$1,500,000 for SFY 2001-02, \$1,545,000 for SFY 2002-03, and \$1,591,350 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0109#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Mental Health Rehabilitation Program
Enrollment and Certification Criteria

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule that restructured the Mental Health Rehabilitation Program and established provisions governing recipient eligibility, service delivery requirements, and reimbursement methodology (*Louisiana Register*, Volume 22, Number 6). Subsequent rules were promulgated to amend the provisions governing administrative requirements by adding staffing definitions and training requirements (*Louisiana Register*, Volume 24, Number 2) and enrollment and certification criteria (*Louisiana Register*, Volume 24, Number 7). The July 20, 1998 rule was amended to revise the administrative requirements for Clinical Managers and staffing definitions for Licensed Professional Counselors, Mental Health Specialists and Mental Health Assistants (*Louisiana Register*, Volume 27, Number 6).

House Concurrent Resolution (HCR) 87 of the 2001 Regular Session of the Louisiana Legislature directed the Department to amend the provision of July 20, 1998 rule that prohibits suspended Mental Health Rehabilitation agencies from admitting new clients until all appeal rights have been exhausted. The Bureau now proposes to adopt a rule to amend this provision of the July 20, 1998 rule in compliance with HCR 87 and to repeal the provider participation requirement for submission of an annual audit by Mental

Health Rehabilitation agencies that is also contained in the July 20, 1998 rule. In addition, the Bureau proposes to amend a provision in the administrative requirements governing Clinical Managers contained in the February 20, 1998 rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends designated provisions of the July 20, 1998 and February 20, 1998 rules to adopt the following revisions in provider certification requirements, suspension and/or termination of certification, and administrative requirements for clinical managers under the Mental Health Rehabilitation Program.

I. ...

II. Provider Participation

A. - B.2.c. ...

Repeal B.2.d. which states:

"submit a copy of an annual audit of the MHR agency conducted by an independent certified public accountant, in accordance with generally accepted accounting principles, within ninety days of the close of the agency's first year of business and annually thereafter.@"

B.3. - G.1.o. ...

2. The suspensive action will be effective as of the date indicated in the written notice issued by the Bureau or its designee. Suspended agencies may continue to admit new clients until all appeal rights have been exhausted and a final decision has been rendered.

G.3. ...

III. Administrative Requirements

A. - B.1. ...

2. The clinical managers shall provide clinical management as follows: at least 12 hours for children and 5 hours for adults per quarter for high need clients, at least 6 hours for children and 3 hours for adults per quarter for moderate need clients, and at least 2 hours for children and adults per quarter for low need clients.

B.3. - D.e. ...

IV. - X. ...

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Mental Health Rehabilitation Program
Enrollment and Certification Criteria**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2001-02, 2002-03, and 2003-04. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not impact federal revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule may have economic benefits for Medicaid providers of Mental Health Rehabilitation (MHR) services. MHR providers may realize savings from the elimination of the annual audit requirement and suspended MHR agencies may benefit because they may continue to admit new clients until all appeal rights have been exhausted and a final decision has been rendered.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition and employment.

Ben A. Bearden
Director
0109#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Minimum Standards for Home Health Agencies
(LAC 48:I:Chapter 91)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule as authorized by R.S. 40:2116.31-2116.40. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule revising the regulations governing the licensure of home health agencies in February of 1995 (*Louisiana Register*, volume 21, number 2). This rule was subsequently amended by a rule adopted in November of 1996 to revise the provisions contained in §§9165 through 9169, 9173, 9177 and 9193 (*Louisiana Register*, volume 22, number 11). There continues to be substantial growth in the home health industry and in the utilization of these services by the citizens of Louisiana. In order to ensure that these licensure standards continue to protect and promote the health and welfare of all consumers of home health services, the Department proposes to amend the designated provisions of the February 20, 1995 and November 20, 1996 rules in an effort to provide clarification of the regulations.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 48

PUBLIC HEALTH

Part I. General Administration

Subpart 3. Licensing and Certification

**Chapter 91. Minimum Standards for Home
Health Agencies**

§9165. Definitions

A. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Activities of Daily Living (ADL) Cthe functions or tasks which are performed either independently or with supervision or assistance-mobility; transferring; walking; grooming; bathing; dressing and undressing; eating, and toileting.

Administrator Ca person who is designated in writing as administratively responsible and available in person or by telecommunication at all times for all aspects of an agency's operations.

Advisory Board Ca group of persons who meet with agency staff and/or owners as frequently as needed, but at least once every year, to evaluate the overall functions of the agency.

Allied Health Personnel Cnursing assistants, licensed practical nurses, licensed physical therapy assistants, and other health care workers who require supervision by other health care professionals.

Branch Can office from which a home health agency provides services within a portion of the total geographic service area served by the parent agency. The branch office is part of the parent home health agency; is located within a 50-mile radius of the parent agency; and shares administration and supervision. See §9183: Branches.

Bureau CBureau of Health Services Financing.

Change of Ownership (CHOW) Cthe sale or transfer of all or a portion of the assets or other equity interest in a home health agency. Examples of actions that constitute a change of ownership include:

a. unincorporated sole proprietorship. Transfer of title and property of another party constitutes change of ownership;

b. 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 a change of ownership. Admission of a new member to a non-profit corporation is not a change of ownership;

c. limited liability company. The removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership;

d. 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.

Clinical Records—those documents maintained on all patients accepted for care by a home health agency. The records shall be retained in accordance with existing state law.

Clinical Note—a written notation of each visit with a patient, which shall include the date and time of the visit, services rendered, and the signature of person providing services. The note may also include any pertinent information related to the visit. See §9193.B. Clinical Records.

Controlling Ownership or Controlling Interest—equity or voting interest possessed by a person or entity that:

a. 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

b. is an officer or director of a home health agency which is organized as a corporation; or

c. is a partner in a home health agency which is organized as a partnership; or

d. is a member or manager of a home health agency that 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 Department of Health and Human Services (DHHS), Centers for Medicare and Medicaid Services (CMS).

Department—the Department of Health and Hospitals (DHH).

Director of Nurses (DON)—a person designated in writing to supervise all aspects of patient care, all activities of professional staff and allied health personnel, and be responsible for compliance with regulatory requirements.

Full Licensure—issued only to those agencies that meet all criteria for licensure. It is valid for one year unless specified otherwise (the expiration date is on the license).

Geographic Service Area—area within a fifty statute mile radius of the parent agency.

Governing Body—the person or group of persons who have legal authority for and/or ownership of the corporation of the home health agency and responsibility for agency operations. A governing body assumes full legal authority and responsibility for the operation of the agency.

Home Health Agency—a state-owned and operated agency, or a subdivision of such an agency or organization; or a private nonprofit organization; or a proprietary organization which provides skilled home health care and support services to the public. Skilled home health care is provided under the order of a physician, in the place of residence of the person receiving the care, and includes skilled nursing and at least one of the following services: physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services.

Home Health Agency Premises—the physical site where the home health agency maintains staff to perform administrative functions, and maintains its personnel records, or maintain its patient service records, or holds itself out to the public as being a location for receipt of patient referrals. The home health agency shall be a separate entity from any other entity, business, or trade. If office space is shared with another health related entity, the home health agency must operate independently and have a clearly defined scope of services. The home health agency may not share office space with a non-health-related entity.

Home Health Aide—a qualified person who provides direct patient care in the home under the direct supervision of a registered nurse to assist the patient with the activities of daily living.

Home Health Packet—the collection of appropriate forms for licensure that may be obtained from the Department for an established fee. This packet is to be completed by all initial applicants before the licensure process can begin.

Jurisdiction—call home health agencies shall be under the jurisdiction of the Department of Health and Hospitals, which promulgates and enforces 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.

Licensed Practical Nurse—a person who works under the supervision of a registered nurse.

Life-Threatening—causes or has the potential to cause serious bodily harm or death of an individual.

Physician—a doctor of medicine, a doctor of osteopathy, or a podiatrist who is currently authorized to practice in Louisiana.

Professional Staff—health care providers who are required to possess current licensure and/or board certification and are authorized to supervise other health professionals as indicated.

Provisional License—a license issued to those agencies that do not meet criteria for full licensure. It is issued by the Department and is valid for six months or until the termination date.

Skilled Care—services provided by an agency for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by licensed professional health care personnel.

Supervision—authoritative procedural guidance by a qualified person who assumes the responsibility for the accomplishment of a function or activity and who provides direction, ongoing monitoring and evaluation of the actual act of accomplishing the function or activity.

Support Services—services provided to assist the ill, disabled or infirmed person with household tasks essential to achieving adequate household and family management. Support services may include, but are not limited to housekeeping, shopping, maintenance of premises, sitter or companion services. Home health agencies that choose to provide support services must have written policies and procedures outlining the delivery, training, assignment, supervision and complaint resolution processes for these services. Support services are strictly supportive in nature and are not part of the patient's medical plan of care; therefore, a physician's order is not required.

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), amended LR 22:1135 (November 1996), LR 27:

§9167. Personnel Qualifications and Responsibilities

A. Administrator. The administrator shall be appointed by and 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 individual is designated as the administrator for more than one agency, then he/she must designate an alternate who is a full-time, on-site employee of each agency and meets the qualifications for an administrator.

1. Qualifications

a. The administrator must have three years of management experience in the delivery of health care service and meet one of the following criteria:

- i. is a licensed physician; or
- ii. is a registered nurse; or
- iii. is a college graduate with a bachelor's degree;

or

- iv. has an associate degree; or
- v. has had three additional years of documented experience in health care delivery services; or
- vi. has had six additional years of documented administrative and managerial experience in a governmental or corporate setting, other than in health care delivery services; supervised at least twenty employees; and handled administration of the daily operations of the organization, including the budget process. The person shall have held no more than three positions during the six-year time period.

b. In addition to the qualifications listed above, those individuals who meet the qualifications contained in §9167.A.1.a.iii - vi must have one additional year of home health management experience.

2. Responsibilities. The administrator shall:

- a. be available in person or by telecommunication at all times for all aspects of agency operation;
- b. designate in writing an individual, who meets the qualifications for an administrator, 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 body; and
- h. implement an ongoing accurate and effective budgeting and accounting system.

B. Advisory Board

1. Qualifications. The advisory board shall be composed of the following individuals:

- a. at least three health care professionals of which one must be an R.N. and one must be a physician; and
- b. at least two non-health care professionals from the community who are not connected financially or by family to the agency or the governing body; one of these professionals may be a member of a patient's family.

2. Responsibilities. The advisory board shall:

- a. conduct an annual documented review of the policies and procedures, the budget, overall program evaluation, statistical information, complaint resolutions and any projected changes;
- b. maintain written minutes of meetings with the signatures of all attendees, dates, and times; and
- c. receive written notification of any of the following:
 - i. the agency's administrator or director of nurses is fired, resigns, or becomes incapacitated to the extent that he/she can no longer perform his/her duties;
 - ii. the agency is surveyed and found to be in violation of the state law, minimum standards, rules, or regulations of the Department of Health and Hospitals;
 - iii. any other grounds which adversely affect the agency's operation.

C. Director of Nurses

1. Qualifications. The director of nurses (DON) must be a registered nurse who is currently licensed to practice in the State of Louisiana and has at least three years of experience as a registered nurse. One of these years must consist of full-time experience in providing direct patient care in a home health setting. The DON must be a full-time employee of only one agency.

NOTE: The director of nurses may never serve more than one agency.

2. Responsibilities. The director of nursing shall:

- a. be a full time employee of only one home health agency;
- b. supervise all patient care activities to assure compliance with current standards of accepted nursing and medical practice;
- c. establish personnel and employment policies to assure that only qualified personnel are hired; employ qualified personnel by verifying licensure and/or certification (as required by law) prior to employment and annually thereafter; and certify and maintain records to support competency of all allied health personnel;
- d. develop and maintain agency policy and procedure manuals that establish and support the highest possible quality of patient care, cost controls, quality assurance, and mechanisms for disciplinary action for infractions;
- e. supervise employee health program;
- f. assure compliance with local, state, and federal laws as well as promote the health and safety of employees, patients and the community with the following non-exclusive methods:
 - i. resolve problems;
 - ii. perform complaint investigations;
 - iii. refer impaired personnel to proper authorities;
 - iv. provide for orientation and in-service to personnel to promote the health and safety of the patient as well as to familiarize staff with regulatory issues and agency policy and procedures;
 - v. ensure orientation of health care personnel who provide direct patient care;
 - vi. ensure timely annual evaluation of health care personnel;

vii. assure regularly scheduled appropriate continuing education for all health professionals and home health aides;

viii. assure that the care provided by the health care personnel promotes the health and safety of the patient; and

ix. assure that agency policies are enforced;

g. be on-site or immediately available to be on-site and available by telecommunications during normal operating hours. The agency shall designate in writing a registered nurse who will assume the responsibilities of the DON during his/her absence, i.e., on vacation, ill time, at a workshop, etc.

D. Home Health Aide

1. Qualifications. A home health aide must meet the following criteria:

a. successfully complete a competency evaluation; and

b. have current nursing assistant certification; or

c. have successfully completed a training program; and

d. exhibit a sympathetic attitude toward the patient, an ability to provide care to the sick, and the maturity and ability to deal effectively with the demands of the job;

e. have the ability to read, write, and carry out directions promptly and accurately; and

f. must inform all employers when employed with one or more agencies; cooperate and coordinate to assure highest performance of quality when providing services to the patient.

2. Responsibilities. The home health aide:

a. shall obtain and record vital signs during each visit in addition to notifying the primary registered nurse of deviations according to standard practice;

b. may provide assistance with the following ADL's during each visit: mobility, transferring, walking, grooming, bathing, dressing or undressing, eating, or toileting. Some examples of assistance include:

i. helping the patient with a bath, care of the mouth, skin and hair;

ii. helping the patient to the bathroom or in using a bedpan or urinal;

iii. helping the patient to dress and/or undress;

iv. helping the patient in and out of bed, assisting with ambulation;

v. helping the patient with prescribed exercises which the patient and the health aide have been taught by appropriate personnel; and

vi. performing such incidental household services essential to the patient's health care at home that are necessary to prevent or postpone institutionalization;

c. may perform care assigned by a registered nurse if the delegation is in compliance with current standards of nursing practice;

d. may administer over the counter disposable enemas, saline or vinegar douches, and glycerine or ducolax suppositories; and

e. shall complete a clinical note for each visit, which must be incorporated into record at least on a weekly basis.

3. Restrictions. The home health aide shall not:

a. perform any intravenous procedures, procedures involving insertion of feeding tubes or urinary catheters, the

administration of tube feedings, or any other sterile or invasive procedures;

b. administer medications to any patient; and

c. perform any of the following tasks that are not home health aide services: transporting the patient, general housekeeping duties, or shopping.

4. Training. A home health agency that offers a training program must, at a minimum, include the following in the training program:

a. communication skills;

b. observation, reporting and documentation of patient status and the care or service furnished;

c. reading and recording temperature, pulse, and respiration;

d. basic infection control procedures;

e. basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;

f. maintenance of a clean, safe, and healthy environment;

g. recognizing emergencies and knowledge of emergency procedures;

h. the physical, emotional, and developmental needs of the patient and methods for working with the populations served by the agency, including the need to respect the patient, his/her privacy and his/her property;

i. safe transfer techniques and ambulation;

j. appropriate and safe techniques in personal hygiene and grooming that include:

i. bed bath;

ii. sponge, tub, or shower bath;

iii. sink, tub, bed or shampoo;

iv. nail and skin care;

v. oral hygiene; and

vi. toileting and elimination;

k. normal range of motion and positioning;

l. adequate nutrition and fluid intake;

m. any other task, within state regulations, that the agency may choose to have the home health aide perform.

5. Orientation. The content of the basic orientation provided to home health aides shall include the following:

a. policies and objectives of the agency;

b. duties and responsibilities of a home health aide;

c. the role of the home health aide as a member of the health care team;

d. ethics and confidentiality;

e. record keeping;

f. information on the process of aging and behavior of the aged;

g. information on the emotional problems accompanying illness; and

h. principles and practices of maintaining a clean, healthy and safe environment.

6. Assignment. The home health aide is assigned to a patient by a registered nurse in accordance with the plan of care. Specific written instructions for patient care are prepared by a registered nurse or therapist as appropriate. All personal care services are described to the patient, in writing, by the registered nurse in charge of that patient.

7. Supervision. A registered nurse or licensed therapist shall provide direct supervision to the home health aide as follows.

a. A registered nurse shall supervise and evaluate the home health aide's ability to perform assigned duties, relate to the patient, and work effectively as a member of the health care team.

b. Periodic on site supervision with the home health aide present shall be established as part of the agency's policies and procedures.

c. If the patient is receiving a skilled service (nursing, physical therapy, occupational therapy, or speech-language pathology), the supervisory visits shall be made to the patient's residence at least once every two weeks (not to exceed 20 days) by the registered nurse or appropriate therapist to assess relationships and determine whether goals are being met.

d. If the patient is not receiving skilled services, a registered nurse must make a supervisory visit to the patient's residence at least once every 62 days. In order to ensure that the aide is properly caring for the patient, the supervisory visit must occur while the home health aide is providing patient care.

e. Documentation of supervision shall include the aide-patient relationships, services provided, and instructions and comments given as well as other requirements of the clinical note.

f. Annual performance review for each aide shall be documented in the individual's personnel record.

8. In-service. The agency must offer a minimum of twelve hours of appropriate in-service training to each home health aide every calendar year. The in-service may be furnished while the aide is providing service to the patient, but must be documented.

a. These in-service sessions should include, but are not limited to: care of the body, communication, infection control, safety and documentation.

b. In-service training may be prorated for employees who only worked a portion of the year; however, part-time employees who work throughout the year must attend 12 hours of in-service training.

c. Documentation should include the outline and length of the in-service training.

E. Licensed Practical Nurse

1. Qualifications. A licensed practical nurse (LPN) must:

a. be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions;

b. have worked at least one year as an LPN prior to being employed by a home health agency; and

c. inform all employers when employed with one or more agencies and cooperate and coordinate to assure highest performance of quality when providing services to the patient.

2. Responsibilities. The LPN shall:

a. perform skilled nursing services under the supervision of a registered nurse in accordance with the laws governing the practice of practical nursing.

b. observe and report the patient's response to treatment and any changes in the patient's condition to the physician and supervising registered nurse;

c. administer prescribed medications and treatments as permitted by the laws governing the practice of practical nursing;

d. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;

e. perform wound care as ordered in accordance with the plan of care; and

f. perform routine venipuncture (phlebotomy) if written documentation of competency is in personnel record. Competency must be evaluated by an RN even if LPN has completed a certification course.

3. Restrictions. The LPN shall not:

a. access any intravenous appliance for any reason;

b. perform supervisory visit for a home health aide;

c. develop and/or alter the plan of care;

d. make initial assessment visit;

e. prepare the recertification;

f. make aide assignments; or

g. function as a supervisor of the nursing practice of any registered nurse.

F. Medical Social Services

1. Qualifications. A medical social worker must:

a. be currently licensed by the Louisiana Board of Certified Social Work Examiners; or

b. have a master's degree from a school of social work accredited by the Council on Social Work Education.

2. Responsibilities. The medical social worker shall:

a. assist the physician and other members of the health care team in understanding significant social and emotional factors related to the patient's health problems;

b. assess the social and emotional factors having an impact on the patient's health status, and assist in the formulation of the plan of care;

c. provide services within the scope of practice, as defined by state law, in accordance with the plan of care and in coordination with other members of the health care team;

d. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;

e. participate in discharge planning and in-service programs related to the needs of the patient; acts as a consultant to other members of the health care team; and

f. submit a written assessment and summary of services provided when medical social work services are discontinued, including an assessment of the patient's current status that will be retained in the patient's clinical record.

3. Restrictions. An unlicensed medical social worker may not contract directly with the home health agency for clinical services, consultation, supervision or educational services.

G. Nutritional Guidance Services

1. Qualifications. If an agency provides or arranges for nutritional guidance, the staff member or consultant must be a professional dietitian who meets the qualification standards of the Commission on Dietetic Registration of the American Dietetic Association.

2. Responsibilities. The dietitian must:

a. document each visit made to the patient and incorporates notes into the clinical record on a weekly basis;

b. prepare initial nutritional dietary assessment;

c. communicates with the Director of Nurses, the nurse supervisor and/or the primary nurse assigned to the patient regarding the need for a continuation of services for each patient;

d. evaluate compliance with physician ordered therapeutic diet and makes recommendations as needed;

e. evaluate patient's socio-economic factors to develop recommendations concerning food purchasing, preparation and storage;

f. train those persons who are responsible for purchasing and storing food;

g. evaluate food preparation methods to ensure that nutritive value is conserved in addition to flavor, texture and temperature principles being adhered to in meeting the individual patient's needs;

h. participate in all related case conferences with agency staff. Minutes of case conferences are retained in patient's clinical record;

i. prepare a written discharge summary and ensure that a copy is retained in patient's clinical record and a copy is forwarded to the attending physician;

j. assess and evaluate the food and nutritional needs of the patient in accordance with the plan of treatment and the Recommended Daily Dietary Allowances established by the Food and Nutrition Board, National Academy of Sciences-National Research Council;

k. participate in discharge planning and in-service training programs related to the needs of the patient and acts as a consultant to the other members of the health care team; and

l. ensure that a current diet manual (within five years of publication) is readily available to agency staff where applicable.

H. Occupational Therapist

1. Qualifications. An occupational therapist must be registered by the American Occupational Therapy Association, and currently licensed by the Louisiana Board of Medical Examiners.

2. Responsibilities. The occupational therapist shall:

a. assist the physician in evaluating the patient's functional status and occupational therapy needs, and assist in the development of the plan of care;

b. provide services within the scope of practice as defined by the state laws governing the practice of occupational therapy, in accordance with the plan of care, and in coordination with other members of the health care team;

c. observe and report the patient's response to treatment and any changes in his/her condition to the physician and the supervising registered nurse;

d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;

e. prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly;

f. when occupational therapy services are discontinued, submit a written summary of services provided, including an assessment of patient's current status, for retention in the patient's clinical record; and

g. provide supervision of the occupational therapy assistant (OTA) as follows:

i. be readily available to the OTA by telecommunications;

ii. assess the competency and experience of the OTA;

iii. establish the type, degree and frequency of supervision that is required for an OTA in a home health setting; and

iv. conduct a face-to-face patient care conference with each OTA once every two weeks, or once every four to six treatment sessions, to review progress and modification of treatment programs for all patients.

I. Occupational Therapy Assistant

1. Qualifications. The Occupational Therapy Assistant (OTA) must:

a. be currently licensed by the Louisiana Board of Medical Examiners to assist in the practice of occupational therapy under the supervision of a licensed Registered Occupational Therapist; and

b. have, at a minimum, 2 years experience as a licensed OTA before starting a home health caseload.

J. Physical Therapist

1. Qualifications. The physical therapist must be currently licensed by the Louisiana State Board of Physical Therapy Examiners and have graduated from a school with a physical therapy curriculum approved by:

a. the American Physical Therapy Association; or

b. the Council on Medical Education and Hospitals of the American Medical Association; or

c. the Council on Medical Education of the American Medical Association and the American Physical Therapy Association.

2. Responsibilities. The physical therapist shall:

a. assist the physician in evaluating the patient's functional status and physical therapy needs, and assist in the development of the plan of care;

b. provide services within the scope of practice as defined by the state laws governing the practice of physical therapy, in accordance with the plan of care, and in coordination with other members of the health care team;

c. observe and report the patient's reaction to treatment and any changes in his/her condition to the physician and the supervising registered nurse;

d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;

e. prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly.

f. when physical therapy services are discontinued, prepare a written discharge summary and ensure that a copy is retained in the patient's clinical record and a copy is forwarded to the attending physician;

g. may supervise home health aides in lieu of a registered nurse if physical therapy is the only skilled service being provided;

h. provide supervision to a physical therapy assistant (PTA) as follows:

i. be readily accessible by telecommunications;

ii. evaluate and establish a written treatment plan on the patient prior to implementation of any treatment program;

- iii. treat and reassess the patient on at least every sixth visit, but not less than once per month;
- iv. conduct a face to face patient care conference once a week with each PTA to review progress and modification of treatment programs for all patients; and
- v. assess the final treatment rendered to the patient at discharge and write a discharge summary.

K. Physical Therapy Assistant

1. **Qualifications.** The physical therapy assistant (PTA) must be currently licensed by the Louisiana State Board of Physical Therapy Examiners and be supervised by a licensed physical therapist. The PTA must have, at a minimum, one year of experience as a licensed PTA before assuming responsibility for a home health caseload.

2. **Restrictions.** The PTA's duties shall not include interpretation and implementation of referrals or prescriptions, performance evaluations, or the determination or major modifications of treatment programs.

L. Registered Nurse

1. **Qualifications.** The registered nurse (RN) must be currently licensed by the Louisiana State Board of Registered Nurse Examiners without restrictions and have, at a minimum, one year of clinical experience as a registered nurse. This requirement may be waived for a registered nurse with recent clinical experience as a LPN or an RN currently working for a home health agency at the time this rule takes effect.

a. **Special Qualifications.** In addition to the above qualifications, a RN must have one of the following credentials in order to provide psychiatric nursing services. Work experience must have been obtained within the last five years. If experience is not within the five year time period, then documentation must be provided to support either psychiatric retraining, classes, or CEUs to update psychiatric knowledge:

- i. a master's degree in psychiatric or mental health nursing; or
- ii. a bachelor's degree in nursing and one year of work experience in an active treatment unit in a psychiatric or mental health facility or outpatient mental health clinic; or
- iii. a diploma or associate degree and two years of work experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic.

2. **Responsibilities.** The registered nurse shall:

- a. provide or supervise skilled nursing services in accordance with physicians orders;
- b. assess and regularly re-evaluate the nursing needs of the patient;
- c. develop, initiate, implement, and update the plan of care as needed or at least every 62 days, or as needed;
- d. provide specialized nursing services, which may include treatments and diagnostic and preventive procedures;
- e. initiate preventive and rehabilitative nursing procedures as appropriate for the patient's care and safety;
- f. coordinate services and inform the physician and other personnel of changes in the patient's condition and needs;
- g. teach, supervise and counsel the patient, family members and other members of the health care team regarding the nursing care needs and other related problems of the patient at home;

h. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;

i. observe and report the patient's response to treatment and any changes in his/her condition to the physician and supervising registered nurse;

j. conduct on-site supervisory evaluations at least every six months of each licensed practical nurse while he/she is providing care and document such supervision in the LPN's personnel file;

k. conduct on-site supervision of patient care provided by the home health aide; and

l. function as patient advocate in all medical decisions affecting the patient.

3. **Restrictions.** A registered nurse applicant may not work in the home health setting as a registered nurse.

M. Speech Pathology Services.

1. **Qualifications.** The speech pathologist must be currently licensed by the Louisiana State Board of Examiners of Speech Pathology & Audiology and certified by the American Speech and Hearing Association, or has completed the academic requirements and is in the process of accumulating the necessary supervised (as directed by the state agency certifying body) work experience required for certification.

2. **Responsibilities.** The speech pathologist shall:

- a. assist the physician and other members of the health care team in evaluating the patient's speech or language needs and formulating the plan of care;
- b. provide services within the scope of practice as defined by the state law governing the practice of speech pathology, in accordance with the plan of care and in coordination with other members of the health care team;
- c. observe and report the patient's response to treatment and any changes in the patient's condition to the physician and supervising registered nurse;
- d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;
- e. prepare clinical and or progress notes for each visit and incorporate them into the clinical record at least weekly; and
- f. submit a written summary of the services provided when speech therapy services are discontinued, including an assessment of the patient's current status, which shall be retained in the patient's clinical record.

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), amended LR 22:1135 (November 1996), LR 27:

§9169. State Licensure

A. Procedures for Initial Licensure

1. The Department of Health and Hospitals is the only licensing authority for home health agencies in the State of Louisiana. To initiate the review process for licensure as a home health agency, the applicant must submit the following:

- a. a completed home health application form;
- b. the required fee for licensure by corporate check, certified check or money order. This fee is non-refundable;

c. documentation of a line of credit from a licensed lending agency for at least \$75,000 as proof of adequate finances to sustain an agency for at least six months;

d. proof of general and professional liability insurance as well as worker's compensation insurance. The general and professional liability coverage shall be for at least \$300,000. The agency must maintain these insurance requirements at all times, and be able to provide proof of insurance upon request;

e. résumés and documentation of qualifications for administrator and director of nursing. Additional information may not be submitted after the original résumé is submitted for review, except for changes in the designated positions or with approval of the Health Standards Section;

f. proof of criminal background investigations on the owners and administrative personnel. If the agency is a corporation, proof of criminal background investigations on all directors and officers shall also be submitted;

g. written documentation of any financial or familial relationship with any other entity providing home health care services in the state;

h. proof of citizenship or a valid green card for all administrative personnel, officers, directors and owners; and

i. any other forms for initial licensure as required by the Health Standards Section.

2. An application will not be reviewed until payment of application fee has been received. All requirements of the application process must be completed by the applicant within ninety days of the date of the initial submission of the home health license application. Upon approval of the application by DHH, the applicant must agree to become fully operational and prepared for initial survey within ninety days. Any application not completed within ninety days after the initial submission will be closed.

3. The applicant will be notified in writing when the application process is completed and the application is approved. The applicant will receive instructions regarding requesting an initial licensing survey.

4. Approved applicants must be fully operational, in compliance with all licensing standards and providing care to only two patients at the time of the initial survey.

5. If an applicant requests to be certified for Medicare and/or enrolled in Medicaid prior to the initial survey, the applicant must also be in compliance with the Medicare Conditions of Participation for home health agencies (42 CFR Part 484) at the time of the licensing survey.

B. Types of Licenses. The Department of Health and Hospitals shall have the authority to issue the three types of licenses described below:

1. Full LicenseCissued to those agencies that have achieved substantial compliance with the Minimum Standards.

2. Administrative Provisional LicenseCmay be issued to an existing agency that has paid the annual renewal fee, but the survey process was not completed before the expiration of its license.

3. Provisional LicenseCmay be issued to those existing agencies that do not meet criteria for full licensure. Such licenses may be issued to any agency by the department when the agency:

a. receives more than five violations of the minimum standards in a one-year period;

b. receives more than three valid complaints in a one-year period;

c. has placed a patient at risk according to a documented incident;

d. fails to correct deficiencies within 60 days of being cited;

e. fails to submit assessed fees after notification by the department;

f. has an owner, administrator, or director of nurses who has pled guilty or nolo contendere to a felony, or been convicted of a felony as documented by a certified copy of the record of the court of conviction. If the applicant is a firm or corporation, a provisional license may also be issued when any of the members, officers, or the person designated to manage or supervise the agency has been convicted of a felony; or

g. fails to notify the department in writing within thirty days of the occurrence of a change in any of the following:

1. controlling ownership;
2. administrator;
3. director of nursing or alternate;
4. address/telephone number; either parent or branch;
5. hours of operation;
6. after-hours contact procedures.

C. Licensure Renewal

1. Full License

a. A full license shall be for a term of one year and shall expire on the date shown on the license unless it is renewed.

b. It is the responsibility of the agency to ensure that a renewal application and appropriate fees are submitted to the Department at least 30 days prior to the expiration of the existing license.

2. Provisional License

a. A provisional license shall be valid for six months or until its expiration date.

b. Any agency issued a provisional license shall pay an additional amount equal to the annual fee for each follow-up survey. Fees shall be paid to the Department prior to the survey being performed and shall be non-refundable.

D. Display of License. The agency's current license shall be displayed in a conspicuous place in the agency at all times.

E. Survey Process

1. Initial. An on-site survey will be conducted to assure compliance with the Minimum Standards. The request for initial licensing survey will be accepted after the applicant has been notified in writing by the Department that the application process is completed and the applicant is approved for an initial survey. This survey will be unannounced and the agency will have only one opportunity to be in compliance with the Minimum Standards. If the initial survey finds that the agency is not in substantial compliance with the Minimum Standards, then the agency shall transfer all patients and close.

2. Renewal. An unannounced, on-site visit will be conducted to assure compliance with the Minimum Standards. This annual survey may be conducted in conjunction with a survey for Medicare re-certification or other reasons.

3. Follow-up. An unannounced survey may be conducted following an annual, complaint, or previous follow-up survey when the agency is not in substantial compliance with the Minimum Standards.

4. Complaint Investigation. The Department of Health and Hospitals has the authority to conduct investigations regarding home health agencies. A complaint investigation may be conducted during an unannounced on-site visit or by telephone, as appropriate.

5. Violations of Minimum Standards. If the agency is found to be in violation of the Minimum Standards during any survey, a statement of deficiencies listing those violations will be issued to the agency. The agency must respond to these violations with an acceptable plan of correction, which must be submitted to the Department. The plan of correction must be received by the Department within ten days of receipt of the statement of deficiencies by the agency. A follow-up survey may be conducted to assure that the agency has achieved substantial compliance with the Minimum Standards. If the follow-up survey reveals that the agency is still not in substantial compliance with the Minimum Standards, then a provisional license may be issued or a revocation action may be initiated in accordance with R.S.40:2116.32 and R.S. 40:2116.36. The agency has one opportunity to question allegations of deficient practice through an informal dispute resolution process. The agency receives a notice of its right to request the informal dispute resolution process with the statement of deficiencies.

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), amended LR 22:1135 (November 1996), LR.

§9171. Fees

A. Licensing Fee. A licensing fee, in the amount determined by DHH, is required to be submitted with the initial application. The Department will not consider an application as complete without the required licensing fee.

B. Renewal Fee. A license renewal fee is required to be submitted annually to the Department prior to the expiration of the license.

C. Change Fee. A fee is required to be submitted for any change involving the agency business name or address, including branch offices.

D. Change of Ownership Fee. A fee equal to the amount of licensing fee is to be paid to the department by the new owner when a change of ownership occurs.

E. Branch Fee. A fee shall be paid when a new branch office is established. The branch fee shall be submitted annually with the license renewal fee.

F. Provisional License Fee. Any agency issued a provisional license shall pay an additional amount equal to the annual fee for each follow-up survey. Fees shall be paid to the department prior to the survey being performed and shall be non-refundable.

Note: All fees submitted to the department must be in the form of a certified check, company check, or money order.

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 27:

§9173. Changes

A. Notice of Changes. The Department shall be notified in writing or by facsimile within 24 hours of the occurrence of any of the following changes:

1. geographic address of the parent or branch office (change fee required);
2. name of the agency (change fee required);
3. mailing address (if different from geographic address);
4. telephone number or fax number of the parent or branch office;
5. hours of operation;
6. 24 hour contact procedures;
7. administrator or DON;
8. controlling ownership;
9. closure of the agency or a branch.

B. Change of Ownership. The department shall be notified in writing of a change of ownership or change of controlling interest.

1. A change of ownership (CHOW) packet is required to be submitted with required fees.

2. When a change in controlling interest occurs, written documentation and disclosure of the change must be submitted.

3. The purchaser of the agency must meet all criteria for an initial application for licensure. See §9169. State Licensure.

C. Voluntary Termination of License. If at any time the agency ceases to operate, the agency shall notify the department in writing and surrender its license to the department within five working days of the cessation of business.

D. Relocation of an Agency. The department shall be notified in writing of any relocation of an agency. An agency may only relocate within its geographic service area in effect on August 15, 1995, or for an agency licensed after that date, a 50-mile radius of the location where the agency was originally licensed.

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), amended LR 22:1135 (November 1996), LR 27:

§9175. Denial of Initial Licensure

Repealed.

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, repealed LR 27:

9177. Denial, Revocation or Nonrenewal of License

A. Denial of Licensure Applications. If an agency's license is revoked or denied renewal, no other home health agency license application will be accepted from that agency for approval by the Department for two years from the date of the revocation or denial of renewal of the license.

B. Grounds for Denial or Revocation of License. The Department of Health and Hospitals may deny an application for a license, refuse to renew a license or revoke a license in accordance with R.S. 40:2116.36 and 40:2116.37.

C. Grounds for Immediate Denial or Revocation. A license shall be immediately denied or revoked if the department determines that the agency either knowingly and willfully or through gross negligence allowed or directed actions which resulted in:

1. cruelty to patients;
2. failure to uphold patient rights resulting in actual or potential harm or injury;
3. failure to protect patients or persons in the community from the harmful actions of the agency employees including, but not limited to: coercion, threat, intimidation, solicitation and harassment;
4. failure to notify an appropriate governmental agency of any suspected cases of neglect, criminal activity, or mental or physical abuse that could potentially cause harm to the patient;
5. acceptance of a patient when the agency has insufficient capacity to provide care for that patient;
6. misrepresentation or other fraudulent conduct in any aspect of the conduct of home care business;
7. bribery, harassment, or intimidation of any person designed to cause that person to use the services of any particular home health agency;
8. pleading guilty or nolo contendere to a felony, or being convicted of a felony by an owner, administrator, or director of nursing as documented by a certified copy of the record of the court of conviction. If the applicant is a firm or corporation, a license may also be immediately denied or revoked when any of its members, officers, or the person designated to manage or supervise the home care has been convicted of a felony. For purposes of this Paragraph, "conviction of a felony" means and includes:

- a. 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;
- b. conviction of a felony relating to violence, abuse, and/or negligent of a person; or
- c. conviction of a felony related to the misappropriation of property belonging to another person.

D. Additional Grounds for Denial or Revocation. A license may be denied, revoked or not renewed for failure to correct any violation of law and regulation for which a provisional license may have been issued under R.S. 40:2116.

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), amended LR 22:1135 (November 1996), LR 27:

§9179. Informal Dispute Resolution Process, Notice and Appeal Procedure

A. Informal Dispute Resolution Process. An agency has one opportunity to question citations of deficient practice through an informal dispute resolution process. To request an informal dispute resolution discussion, the agency must submit a written request specifying the deficient practice(s) that are being disputed and why the agency is questioning the deficient practice(s). The request must be made within 10 days of the date of the agency's receipt of the notice of the deficient practice(s). Reconsideration shall be made solely on the survey report, statement of violations and all

documentation the agency submits to the Department at the time of its request for reconsideration. Correction of a violation shall not be a basis for reconsideration. Since this is an informal dispute resolution discussion, it is not necessary for the agency's attorney to be present. However, if the agency wishes to include their attorney in the informal dispute resolution discussion, the agency must indicate this in their written request. The informal dispute resolution process is not in lieu of the appeals process and does not extend the time limits for filing an administrative appeal.

B. Notice. Notice of reasons for nonrenewal or revocation of a license shall be given in accordance with the current Louisiana Revised Statutes.

C. Administrative Appeal Process. When an administrative appeal is requested in a timely and proper manner, the Department of Health and Hospitals shall provide an administrative hearing in accordance with the provisions of the Louisiana Administrative Procedure Act and the current Louisiana Revised Statutes.

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 27:

§9181. Agency Operations

A. Hours of Operation. An agency shall be required to have regular posted business hours and be fully operational at least eight hours a day, five days a week between 7:00 a.m. and 6:00 p.m. Patient care services shall be made available as needed 24 hours a day, 7 days a week.

B. Operational Requirements.

1. A home health agency shall:
 - a. be open for the business of providing home health care services;
 - b. post its hours of operation and emergency contact procedures in a prominent and easily accessible manner;
 - c. have a registered nurse immediately available by telecommunications at all times;
 - d. respond to patient care needs and physician orders in a timely manner;
 - e. be able to accept referrals at all times;
 - f. have at least 2 patients at all times;
 - g. have adequate staff to provide for patient care needs according to accepted standards of practice;
 - h. have policies and procedures specific to the agency which address staff responsibilities and qualifications; agency operations; patient care standards; problem and complaint resolution; purpose and goals of operation; and regulatory and compliance subjects;
 - i. have policies and procedures that are written, current, and annually reviewed by appropriate personnel;
 - j. accept medical orders only from a physician or authorized physician representative (e.g., hospital discharge planner);
 - k. use only factual information in advertising;
 - l. have an emergency preparedness plan (which conforms to the Louisiana Model Home Health Emergency Preparedness Plan) designed to manage the consequences of natural disasters or other emergencies that disrupt the home health agency's ability to provide home health services;
 - m. limit the geographic service area of the agency to a 50-mile radius of the parent agency;

- n. act as the patient advocate in medical decisions affecting the patient;
- o. protect the patient from unsafe clinical practices;
- p. ensure that staff is competent in the treatments and procedures provided to patients prior to the treatments or procedures being provided;
- q. operate within the laws and regulations of all local, Federal and State agencies that have authority over the operations of such businesses;
- r. notify the Department of any change of address, services added or ceased, and change of all key employees in accordance with §9173;
- s. maintain general and professional liability insurance with minimum limits of \$300,000 and workers' compensation insurance in the minimum statutory amount.

2. A home health agency may:

a. participate as educators in public health fairs and may provide free non-invasive services, such as blood pressure screenings; and

b. advertise its services and provide truthful and accurate informational material to the public in so doing.

3. A home health agency shall not:

a. harass, bribe, coerce, or intimidate any patient to change agencies or to select an agency;

b. allow, permit, or encourage any employee or volunteer representing the agency to harass, bribe, coerce, or mistreat any patient in any manner or form; and

c. advertise untruthfully regarding the services provided, professional credentials of any employee, accreditation awards, or other such information that misleads and misinforms the public.

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:

§9183. Operation of Branch Offices

A. Branch Office Approval. No branch office may be opened without written approval from the Department. In order for a branch office to be approved, the parent agency must have full licensure for at least one year. Branch office approval will be renewed at the time of renewal of the parent agency's license if the parent agency meets the requirements for licensure.

B. Identification. The branch shall be held out to the public as a branch or division of the parent agency, so that the public will be aware of the identity of the agency operating the branch. Reference to the name of the parent agency shall be contained in any written documents, signs, or other promotional materials relating to the branch.

C. Personnel Records. Original personnel files shall not be maintained at the branch office.

D. Survey. A branch office is subject to survey by the Department at any time to determine compliance with the Minimum Standards that apply to branches.

E. Operational Requirements. A branch office shall:

1. serve a part of the geographic service area approved for the parent agency;

2. offer all home health services provided by the parent agency;

3. retain all original clinical records for its patients. Duplicate records need not be maintained at the parent

agency, but shall be made available to federal/state surveyors during any review upon request; and

4. maintain a statement of personnel policies on site for staff usage.

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 27:

§9185. Personnel Policies and Records

A. Personnel Policies. Each home health agency will formulate and adhere to personnel policies. The policies will be reviewed on an annual basis and must specify agency requirements with regard to the following:

1. hours of work;

2. an organizational chart down to the patient care level;

3. job description and realistic performance expectations for each category of personnel;

4. an annual employee health screening in accordance with current local, federal, and state laws;

5. an outline of the planned orientation to be provided to each employee, including the length of the orientation;

6. annual personnel evaluations as well as annual verification of current Louisiana licensure and certification of applicable health professionals;

7. continuing education related to health care activities:

a. health professionals must attend in-service training as required by respective licensing boards.

b. home health aides must attend in-service training 12 hours per calendar year;

8. disciplinary actions;

9. grievance proceedings;

10. specifications for employee health/safety;

11. payroll; and

12. criminal background investigations ("history check"), if applicable.

B. Personnel Records. Original personnel files must be maintained either at the parent agency or integrated with the human resources department of a hospital, agency home office or the parent corporation of the agency. Personnel records must be made available to surveyors on request. There shall be a personnel record on file for each employee and contract staff member including, but not limited to the following information:

1. name, address and telephone number;

2. job application/resume';

3. the results of an annual employee health screening in accordance with current local, federal, and state laws;

4. current license or certification verification, if applicable;

5. current job description, including duties to be performed;

6. documentation of orientation;

7. current contract, if applicable;

8. annual personnel evaluations;

9. documentation of continuing education; and

10. criminal background investigation ("history check"), if applicable.

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 27:

§9186. Emergency Preparedness

A. The home health agency shall have an emergency preparedness plan which conforms to the current Office of Emergency Preparedness model plan and is designed to manage the consequences of natural disasters or other emergencies that disrupt the home health agency's ability to provide care and treatment or threaten the lives or safety of its clients. The home health agency is responsible for obtaining a copy of the current Home Health Emergency Preparedness Model Plan from the Louisiana Office of Emergency Preparedness.

B. At a minimum, the agency shall have a written plan that describes:

1. the evacuation procedures for agency clients who require community assistance as well as for those with available caregivers to another location;
2. the delivery of essential care and services to agency clients, whether they are in a shelter or other locations;
3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions;
4. a plan for coordinating transportation services required for evacuating agency clients to another location; and
5. assurance that the agency will notify the client's family or caregiver, if client is evacuated to another location.

C. The home health agency's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The home health agency's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if the agency's performance during an actual emergency or a planned drill indicates that it is necessary.

D. Any updates or revisions to the plan shall be submitted to the parish Office of Emergency Preparedness for review. The parish Office of Emergency Preparedness shall review the home health agency's plan by utilizing community wide resources.

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 27:

§9187. Patient Care Standards

A. Admission Criteria. The home health agency shall follow written policies in making decisions regarding the acceptance of patients for care. Decisions must be based upon medical and social information provided by the patient's attending physician, and the patient and/or the family as well as the agency resources available to meet the needs of potential patients. The home health agency shall accept patients for care without regard to age, color, creed, sex, national origin or handicap. Patients shall be admitted to an agency based on the following written criteria:

1. the ability of the agency and its resources to provide services on a timely basis (within 24 hours unless specified otherwise by physician's order);
2. the willingness of the patient and caregiver to participate in the plan of care;

3. the patient's medical, nursing or social needs can be adequately met in his/her residence; and

4. all other criteria required by any applicable payor source(s).

B. Admission Procedure. Patients are to be admitted only upon the order of the patient's physician. The patient shall have the right to choose a physician and a home health agency without interference. Admission procedures are as follows:

1. an initial visit shall be made by a registered nurse or an appropriate therapist who will perform the assessment and instruct the patient regarding home care services. This visit shall be made within 24 hours of referral unless otherwise ordered by physician;

2. an initial Plan of Care (POC) must be completed by a R.N. or an appropriate therapist and incorporated into the patient's clinical record within seven days from the start of care; and

3. documentation shall be obtained at admission and retained in the clinical record including:

- a. the referral for home care and/or physician's order to assess patient;
- b. a history;
- c. a physical assessment;
- d. a functional assessment, including a listing of all ADL's;
- e. current problems, needs, and strengths;
- f. prescribed and over-the-counter medications currently used by the patient;
- g. services needed, including frequency and duration expected;
- h. defined expected outcomes, including estimated date of resolution;
- i. ability, availability, and willingness of potential care-givers;
- j. barriers to the provision of care;
- k. orientation, which includes:
 - i. advanced directives;
 - ii. agency services;
 - iii. patient's rights and responsibilities, including the telephone number for the home health hotline;
 - iv. agency contact procedures; and
 - v. conflict resolution;

l. freedom of choice statement signed by patient or patient representative; and

m. other pertinent information.

C. Plan of Care. The plan of care (POC) for each patient must be individualized to address the patient's problems, goals, and required services.

1. The POC, telephone and/or verbal orders must be signed by the physician within a timely manner, not to exceed 30 days.

a. The physician's verbal orders may be accepted by a registered nurse, a qualified therapist or a licensed practical nurse as authorized by State and Federal laws and regulations.

b. Verbal orders taken by an LPN must be cosigned by an RN or appropriate therapist.

2. Agency staff shall administer services and treatments only as ordered by the physician.

3. A POC for continuation of services must be completed by a R.N. or an appropriate therapist and

incorporated into the patient's clinical record within seven days from the date of the development of the POC.

D. Review of the Plan of Care. The total plan of care must be reviewed by the patient's attending physician in consultation with the agency's professional personnel at such intervals as required by the severity of the patient's illness, but at least once every two months.

E. Drugs and Biologicals. The agency shall institute procedures that protect the patient from medication errors. Agency policy and procedures shall be established to insure that agency staff have adequate information regarding the drugs and treatments ordered for the patient.

1. Agency staff will only administer drugs and treatments as ordered by the physician.

2. Only medications dispensed, compounded or mixed by a licensed pharmacist and properly labeled with the drug name, dosage, frequency of administration and the name of the prescribing physician shall be administered.

3. The agency will provide verbal and written instruction to patient and family as indicated.

F. Coordination of Services. Patient care goals and interventions must be coordinated in conjunction with providers, patients and/or caregivers to ensure appropriate continuity of care from admission through discharge.

1. All agencies shall provide for nursing services at least eight hours a day, five days a week and be available on emergency basis 24 hours a day, seven days a week. Agencies must maintain an on-call schedule for R.N.s.

2. The agency must maintain a system of communication and integration of services, whether provided directly or under arrangement, that ensures identification of patient needs and barriers to care, the ongoing coordination of all disciplines providing care, and contact with the physician regarding for relevant medical issues.

G Discharge Policy and Procedures

1. The patient may be discharged from an agency when any of the following occur:

- a. the patient care goals of home care have been attained or are no longer attainable;
- b. a caregiver has been prepared and is capable of assuming responsibility for care;
- c. the patient moves from the geographic service area served by the agency;
- d. the patient and/or caregiver refuses or discontinues care;
- e. the patient and/or caregiver refuses to cooperate in attaining the objectives of home care;
- f. conditions in the home are no longer safe for the patient or agency personnel. The agency shall make every effort to satisfactorily resolve problems before discharging the patient;
- g. the patient's physician fails to renew orders for the patient;
- h. the patient, family, or third-party payor refuses to meet financial obligations to agency;
- i. the patient no longer meets the criteria for services established by the payor source;
- j. the agency is closing out a particular service or any of its services;
- k. death of the patient.

2. The agency must have discharge procedures that include, but are not limited to:

- a. notification of the patient's physician;
- b. documentation of discharge planning in the patient's record;
- c. documentation of a discharge summary in the patient's record; and
- d. forwarding of the discharge summary to the physician, if requested.

3. The following procedures shall be followed in the event of the death of a patient in the home:

- a. the proper authorities shall be notified immediately in accordance with state and local ordinances;
- b. the home health agency parent office shall be notified;
- c. the home health agency personnel in attendance shall offer whatever assistance they can to the family and others present at scene; and
- d. progress notes shall be completed in detail and must include observations of the patient, any treatment provided, individuals notified, and time of death, if established by the physician.

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 27:

§9189. Patient Rights

A. The patient must be informed of his or her rights in receiving home care services. The patient has the right to exercise his/her rights as a patient of the home health agency. If the patient has been judged incompetent, the family or guardian may exercise the patient's rights. The agency must protect and promote the exercise of these rights.

1. Notice of Rights. The agency must provide the patient with a written notice of the patient's rights in advance of furnishing care to the patient or during the initial evaluation visit before the initiation of treatment. The agency must maintain documentation that it has complied with the requirements of this section.

2. Right to be Informed and to Participate in Planning Care and Treatment. The patient has the right to be informed, in advance, about the care to be furnished and of any proposed changes in the care being furnished. The patient also has the right to participate in the planning of care and to be informed regarding advance directives.

a. The agency must advise the patient, in advance, of the disciplines that will furnish care and the proposed frequency of visits to be furnished.

b. The agency must advise the patient of any proposed change in the plan of care before the change is made.

c. The agency must advise the patient, in advance, of his/her right to participate in the planning of care or treatment as well as in the planning of changes in care or treatment.

d. The agency must inform and distribute written information to the patient, in advance, concerning its policies on advance directives, including a description of applicable State law. The advance directives information may be given to a patient at the time of the first home visit,

as long as the information is furnished before care is provided. The agency must maintain written policies and procedures regarding advance directives.

3. Right to Respect for Person and Property. The patient has the right to be treated with respect and to have his/her property treated with respect. The patient also has the right to file a grievance regarding the treatment or care that is or is not being furnished, or regarding the lack of respect for property by anyone who is furnishing services on behalf of the agency. The patient shall not be subjected to discrimination or reprisal for filing a grievance.

a. The agency must investigate complaints made by a patient or the patient's family or guardian regarding the treatment or care that is or is not being furnished, or regarding the lack of respect for the patient's property by anyone furnishing services on behalf of the agency. The agency must document both the receipt and subsequent resolution of the complaint.

4. Right to Confidentiality of Medical Records. The patient has the right to expect the agency to maintain the confidentiality of his/her clinical records. The agency must advise the patient of its policies and procedures regarding disclosure of clinical records.

5. Right to be Informed about Patient liability for Payment.

a. The patient has the right to be advised, before care is initiated, of his/her liability for payment for services furnished by the agency. Before care is initiated, the agency must inform the patient, orally and in writing, of:

- i. the charges for services furnished by the agency;
- ii. those charges for services that will not be covered by the patient's payor source; and
- iii. the charges that the patient may be responsible for paying.

b. The patient has the right to be advised, orally and in writing, of any changes to the preceding requirements when they occur.

i. The agency must advise the patient of these changes orally and in writing as soon as possible, but no later than 30 calendar days from the date that the agency becomes aware of a change.

6. Home Health Hotline. The patient has the right to be advised of the availability of the state's toll-free home health hotline. When the agency accepts a patient for treatment or care, the agency must advise the patient, in writing, of the telephone number of the State's home health hotline, the hours of its operation, and that the purpose of the hotline is to receive complaints or questions about local home health agencies. The patient also has the right to use this hotline to lodge complaints concerning the implementation of advance directives requirements.

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 27:

§9191. Contract Services

A. An agency may contract with other companies or individuals to provide services to a patient. However, the agency is responsible for the management of the patient's care and for all services provided by the contractor or its personnel.

1. Contract Requirements. Whenever services are provided by an outside agency or individual, there must be a written contract. The contract shall include all of the following items:

a. designation of the services that are being arranged for by contract;

b. specification of the period of time that the contract is to be in effect, if it is for a specified time period;

c. a statement that services provided to the patient are in accordance with a plan of care established by the patient's physician in conjunction with the home health agency staff and, when appropriate, others involved in the patient's care;

d. a statement that services are being provided within the scope and limitations set forth in the plan of care, and may not be altered in type, scope, or duration by the contractor;

e. assurance that the contractor meets the same requirements as those specified for home health agency personnel such as staff qualifications, functions, evaluations, orientation and inservice training. The agency shall be responsible for assuring the contractor's compliance with the personnel policies required for a home health agency during the contractual period;

f. assurance that the contractor completes the clinical record in the same timely manner as required by the staff personnel of the agency;

g. payment of fees and terms; and

h. assurance that reporting requirements are met.

B. Contract Review. The home health agency and contractor shall document review of their contract on an annual basis.

C. Coordination of Contract Services. The home health agency shall coordinate services with contract personnel to assure continuity of patient care.

Note: Administration and one other service must be provided directly by the agency at all times.

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 27:

§9193. Clinical Records

A. Requirements. A clinical record containing past and current findings shall be maintained for every patient who is accepted by the agency for home health service. In addition, the agency must comply with the following requirements for clinical records.

1. The information contained in the clinical record must be accurate and immediately available to the patient's physician and appropriate home health agency staff. The record may be maintained electronically.

2. All entries must be legible, clear, complete, and appropriately authenticated and dated. Authentication must include signatures or a secured computer entry with the unique identifier of a primary author who has reviewed and approved the entry.

3. The original clinical records of active patients may be kept in the branch office for the convenience of the staff providing services. The records of patients whose services are provided by parent office staff must be kept in that office.

4. All clinical records shall be safeguarded against loss, destruction and unauthorized use.

5. A signed "consent for treatment" form must be obtained from the patient and/or the patient's family and retained in the record.

6. When applicable, a signed "release of information" form must be obtained from the patient and/or the patient's family and a copy must be retained in the record.

7. A written summary report for each patient must be sent to the attending physician every two months.

8. If a patient is transferred to another health facility, a copy of the records, a transfer form, or a discharge summary must be sent with the patient.

9. Records shall be made available to DHH staff upon request.

10. Records must be retained for five years from the date on which the record was established unless there is an audit or litigation, which involves the record.

11. The agency must have internal policies that provide for the retention of clinical records even if the agency discontinues operation.

B. Clinical Note. A clinical note shall be legibly written by the person making the visit and incorporated into the clinical record within one week of the visit. A patient care clinical note must be completed on each visit and must contain the following:

1. the date of the visit;
2. time of arrival;
3. time of exit;
4. services rendered and/or justification for the visit;
5. signature of the person making the visit;
6. vital signs, according to physician's order or accepted standards of practice; and
7. comments when indicated.

Note: The patient or a responsible person must sign the permanent record of visit that is retained by the agency. However, it is not necessary for the patient or a responsible person to sign on the clinical note.

C. Clinical Record Contents. An active clinical record shall contain all of the following documentation:

1. the initial assessment;
2. the current plan of care signed and dated by the physician. If the physician does not date the POC when it is signed, then the agency must date it when the signed POC is received from the physician;
3. the current comprehensive assessment;
4. the current clinical notes for at least the past 60 days, including a description of measurable outcomes relative to the goals in the POC that have been achieved;
5. identifying data, including:
 - a. name;
 - b. address;
 - c. date of birth;
 - d. gender;
 - e. agency case number; and
 - f. next of kin;
6. the date that care started;
7. attending physician data, including:
 - a. name;
 - b. address; and
 - c. telephone number;
8. the diagnoses, including all conditions relevant to the current plan of care;

9. the types of services rendered, including frequency, duration and the applicable clinical notes;

10. a list of current medications indicating the drug, dosage, frequency, route of administration if other than oral, dates that a drug was initiated and discontinued, drug allergies, dates that non-prescription remedies were initiated and discontinued, side effects and a tracking procedure, and any adverse reactions experienced by the patient;

11. the current medical orders;

12. diet;

13. functional status;

14. rehabilitation potential;

15. the prognosis;

16. durable medical equipment available and/or needed;

17. when applicable, a copy of the transfer form that was forwarded to the appropriate health care facility that will be assuming responsibility for the patient's care; and

18. the discharge summary which shall be available to physicians upon request.

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), amended LR 22:1135 (November 1996), LR 27:

§9195. Continuous Quality Improvement

A. The agency shall have written policies requiring that an overall evaluation of the agency's total program be conducted at least once a year by a group of professional personnel (or a committee of this group), agency staff, and consumers or by a independent group of professionals outside the agency working in conjunction with consumers. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective, and efficient. The results of the evaluation must be reported to and acted upon by those persons who are responsible for the operation of the agency. The evaluation results shall be maintained separately as administrative 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, amended LR 21:177 (February 1995), LR 27:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Minimum Standards for Home
Health Agencies**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2001-02, 2002-03, and 2003-04. It is anticipated that \$3,000 (\$1,500 SGF and \$1,500 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not impact federal revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Home health agencies providing services to home health clients must provide documentation of a line of credit from a licensed lending agency for at least \$75,000 as proof of adequate finances to sustain the agency for at least six months. This requirement applies to the initial licensure process.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Home health agencies that provide services to home health clients must undergo an initial on-site licensing survey. If the initial survey finds that the agency is not in substantial compliance with the minimum standards, then the agency shall transfer all patients and close.

Ben A. Bearden
Secretary
9912#019

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Pharmacy Program Average Wholesale
Price Reimbursement Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in April 1990 to amend the reimbursement methodology for drugs under the Louisiana Medicaid Pharmacy Program (*Louisiana Register*, Volume 16, Number 4). In compliance with Act 10 of the 1999 Regular Session of the Louisiana Legislature, the Bureau amended the April 20, 1990 rule to limit payments for prescription drugs to the lower of: (1) average wholesale price (AWP) minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies; (2) Louisiana's maximum allowable cost (MAC) limitation plus the maximum allowable overhead

cost (MAOC); (3) federal upper limits plus the maximum allowable overhead cost; or (4) providers' usual and customary charges to the general public. In addition, the definition of chain pharmacies was established as five or more Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 6).

As a result of a budgetary shortfall, the Bureau adopted a rule amending the June 20, 2000 rule to limit payments for prescription drugs to the lower of (AWP) minus 15 percent for independent pharmacies and 16.5 percent for chain pharmacies. In addition, the definition of chain pharmacies was changed from five or more to more than fifteen Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 8). As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rate for prescription drugs under the Medicaid Program by amending the estimated acquisition cost formula from AWP minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies (*Louisiana Register*, Volume 27, Number 8). The Bureau now proposes to adopt a rule to continue the provisions contained in the August 6, 2001 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for prescription drugs under the Medicaid Program by amending the estimated acquisition cost formula from average wholesale price (AWP) minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies. This adjustment applies to single source drugs, multiple source drugs that do not have a state maximum allowable cost (MAC) or federal upper limit and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary.

Implementation of this proposed rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Program Average Wholesale
Price Reimbursement Increase**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$2,040,376 for SFY 2001-02, \$2,335,005 for SFY 2002-03, and \$2,405,056 for SFY 2003-04. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$4,843,375 for SFY 2001-02, \$5,542,882 for SFY 2002-03, and \$5,709,168 for SFY 2003-04.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase payments to pharmacies for prescription drug services provided to Medicaid recipients by approximately \$6,883,591 for SFY 2001-02, \$7,877,887 for SFY 2002-03, and \$8,114,224 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule could result in some independent pharmacies remaining in the Medicaid program and continuing to provide prescription drug services to Medicaid recipients.

Ben A. Bearden
Director
0109#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Private Nursing Facilities Reimbursement Rate Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 that established the reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). The reimbursement methodology for private nursing facilities included provisions for interim adjustments to the reimbursement rates and automatic application of an inflation adjustment to the rates in those years when the rates are not rebased. The June 1984 rule was subsequently amended to discontinue the

practice of automatically applying an inflation adjustment to the rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6). As a result of the allocation of additional funds by the legislature during the 2000 Second Special Session, the bureau adopted an Emergency Rule to restore the 7 percent reduction previously made to the prospective per diem rates for private nursing facilities (*Louisiana Register*, Volume 26, Number 7).

As a result of the allocation of funds by the legislature during the 2001 Regular Session in order to continue initial year rebasing as provided for by R.S. 46:2691 through an approved state plan amendment to be in effect for state fiscal year 2001-2002 only and for cost increases as verified by the Department of Health and Hospitals, the bureau adjusted the per diem rates paid to private nursing facilities (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adjusts the percentile utilized for all cost components, except profit incentive, from the sixtieth to the sixty-second percentile.

The Bureau of Health Services Financing establishes the following reimbursement rates for private nursing facility services:

Level Of Care	Daily
Skilled Nursing	\$85.42
Intermediate Care I	\$81.50
Intermediate Care II	\$81.50
Skilled Nursing Infectious Disease	\$258.71
Skilled Nursing Technology Dependent Care	\$246.61

Implementation of this proposed rule shall be contingent on the approval of the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Private Nursing
FacilitiesC Reimbursement Rate Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$2,847,242 for SFY 2001-02, \$3,199,197 for SFY 2002-03, and \$3,295,173 for SFY 2003-04. The source of the state funding for this proposed rule is the Medicaid Trust Fund for the Elderly. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$6,758,754 for SFY 2001-02, \$7,594,315 for SFY 2002-03, and \$7,822,144 for SFY 2003-04.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will increase payments to private nursing facilities providing services to Medicaid recipients by approximately \$9,605,876 for SFY 2001-02, \$10,793,512 for SFY 2002-03, and \$11,117,317 for SFY 2003-04.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition as the nursing home moratorium remains in effect. However, increased payments to providers of nursing facility services may enable the providers to increase compensation to lower paid employees (i.e., nurses aides).

Ben A. Bearden
Director
0109#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Application after Denial
(LAC 42:III.123, VII.2157, IX.2135, and XIII.2157)

The Louisiana Gaming Control Board hereby gives notice that it intends to adopt LAC 42:III.123, and to repeal LAC 42:VII.2157, 42:IX.2135, and 42:XIII.2157 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

§123. Application after Denial

A. Any person whose application for license, permit or finding of suitability has been denied with prejudice is not eligible to reapply for any approval authorized by Title 27 of the Revised Statutes for a period of five years from the date the decision becomes final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:

Part VII. Pari-Mutuel Live Racing Facility

§2157. Application after Denial

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000), repealed LR 27:

Part IX. Landbased Casino Gaming

§2135. Application after Denial

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999), repealed LR 27:

Part XIII. Riverboat Gaming

§2157. Application after Denial

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division LR 19:1176 (September 1993), amended LR 21:705 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 27:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953.A, the Gaming Control Board, through its chairman, has considered the potential family impact of adopting LAC 42:III.123 and repealing VII.2157, IX.2135, XIII.2157.

It is accordingly concluded that adopting LAC 42:III.123 and repealing VII.2157, IX.2135, XIII.2157 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through October 10, 2001, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Application after Denial

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs to directly affected persons are expected. Some applicants will be prohibited from reapplying for permits or licenses for a period of five years in situations when an application is denied with prejudice. It is not anticipated that these rules will result in an actual economic cost to those directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0109#038

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

New Dealer Requirements; Transport/Delivery
Truck Inspection; Supplement to NFPA
(LAC 55:IX.107, 166, and 181)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the commission proposes to amend existing rules and adopt new rules. The proposed rule changes and new adoptions have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The proposed rule changes and adoptions will do five things:

1. will amend its rules regarding permit fees that are based on a percentage of gross annual sales of liquefied petroleum gases from .1700 of 1 percent to .1500 of 1 percent of gross annual sales of liquefied petroleum gases with a minimum of \$75;

2. will adopt new rules requiring all Class I, Class VI, Class VI-X and Class VIII permit holders to accept, for proper disposal or requalification, all 4 lb. through 40 lb. liquefied petroleum gas capacity cylinders from consumers, when offered, that are not suitable for continued service in their present condition. Also will require all Class I permit holders who supply liquefied petroleum gas to Class VI, Class VI-X, or Class VIII permit holders, to accept and properly dispose of or requalify, all 4 lb. through 40 lb. liquefied petroleum gas capacity cylinders which are offered by their Class VI, Class VI-X, or Class VIII permit holders for disposal or requalification. Will make those cylinders transferred, the property of the Class I permit holder and the Class I permit holder responsible for the requalification or proper disposal of the cylinders;

3. will adopt new rules requiring all classes of permit holders who fill cylinders on their premises for the public, to post a "Reject and Do Not Fill" poster or sign approved by the Liquefied Petroleum Gas Commission at each filling location;

4. will amend its rules regarding transport/delivery inspections and allow reimbursement to the commission, for travel expenses for out of state inspections made, at the request of the out of state permit holder. Out of state inspections will be solely at the discretion of the commission; and

5. will amend its rules regarding overfilling prevention devices, deleting the requirement that all 4 lb. to 40 lb. propane capacity cylinders must be equipped with an overfilling prevention device (OPD) by April 1, 2002 to September 30, 2010 and making it against its rules to fill these cylinders after September 30, 2010, if not so equipped.

The proposed rule changes comply with the statutory authority granted the commission under R.S.40:1846.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

' 107. Requirements

A.1. - 5.c. ...

6. Applicant must have paid a permit fee in the amount of \$75, except for Class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations. For succeeding years the permit fee shall be .1500 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$75, except in the case of Class VI-X which the minimum permit fee shall be \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations; or .1500 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

6.a. - 13. ...

14. All Class I, Class VI, Class VI-X, and Class VIII permit holders are required to accept, for proper disposal or requalification, all 4 lb. through 40 lb. liquefied petroleum gas cylinders from consumers, when offered, which are not suitable for continued service in their present condition. Class I permit holders, who supply liquefied petroleum gas to Class VI, Class VI-X and Class VIII permit holders are required to accept and properly dispose of or requalify, all 4 lb. through 40 lb. liquefied petroleum gas capacity cylinders when offered by their Class VI, Class VI-X, or Class VIII permit holders for disposal or requalification. Those cylinders offered for disposal or requalification become the property of the permit holders accepting the cylinder. It is the responsibility of the Class I permit holders to properly dispose of the cylinders which are not or can not be requalified.

15. All classes of permit holders who fill cylinders on their premises for the public shall have a "Reject and Do Not Fill" poster or sign approved by the Liquefied Petroleum Gas Commission at each filling location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972,

amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:

Subchapter F. Tank Trucks, Semi-Trailers and Trailers

§166. Transport/Delivery Truck Registration Decals and Inspections

A. - C.2.a. ...

b. a qualified agency acceptable to the commission with acceptable documentation, that a safety inspection has been performed by that qualified agency.

3. Safety inspections performed by a commission inspector within the State of Louisiana shall be free of charge.

4. Safety inspections performed by a commission inspector outside of the State of Louisiana shall be subject to travel reimbursement to the commission from the permit holder(s) for which the travel was performed in accordance with Policy and Procedure Memorandum 49 guidelines. This travel must be requested by the out of state permit holder and out of state travel will be solely at the discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:467 (March 1998), LR 25:2412 (December 1999), LR 27:

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Numbers 54 and 58

A. - E.10. ...

11. Adding as a supplement to NFPA 58-1995C in Louisiana all new cylinders from 4 lbs. through 40 lbs. propane capacity fabricated after August 1, 1999 shall be equipped with a listed overfilling prevention device (OPD) and a fixed maximum liquid level gauge. All DOT cylinders now in use must be retrofitted with the overfilling prevention device (OPD) either when the cylinder is requalified under Louisiana regulations or by September 30, 2010. No cylinder shall be filled in Louisiana after September 30, 2010 unless equipped with an overfilling prevention device (OPD). Lift truck cylinders and cylinders marked, identified and used for welding and cutting gases are exempt from these provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:2412 (December 1999), LR 27:

The commission will hold a public hearing October 25, 2001, 1723 Dallas Drive, Baton Rouge, LA, at 8:30 a.m. in regard to these changes.

Written comments will be accepted through October 19, 2001 and should be sent to Charles M. Fuller, P.O. Box

66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended action.

Charles M. Fuller
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: New Dealer Requirements; Transport/Delivery Truck Inspection; Supplement to NFPA

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an estimated \$3,000 per year decrease in costs to the agency for in-state travel and a corresponding increase in out-of-state travel having an estimated net effect of zero. The only other cost increase to the agency will be the cost of publishing in the *Louisiana Register* which will be insignificant. There will be no increase or decrease in costs to any local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a calculated net revenue decrease to the agency of \$8,290 in FY 01-02, \$32,280 in FY 02-03, and succeeding fiscal years. There will be no effect on revenues for any local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an economic benefit to approximately 100-125 permit holders, who pay in excess of the minimum in permit fees, in the reduction of permit fees calculated to be \$11,290 in FY 01-02, \$35,280 in FY 02-03 and succeeding fiscal years. There will be no economic benefit to any other person or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Charles M. Fuller
Director
0109#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Hazardous Materials CRight to Know
(LAC 33:V.10117 and 10121)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 30:2361 et seq., gives notice of its intent to amend its rules regulating chemical inventory fling fees and those entities subject to civil penalties all in accordance with statutory changes in these areas.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Wastes and Hazardous Materials
Subpart 2. Department of Public Safety and
Corrections Hazardous Materials
Chapter 101. Hazardous Material Information
Development, Preparedness
and Response Act

§10117 Failure to Report: Penalties

A. - D.1.

2. R.S. 30:2373(D)(2) provides that for any person, owner, operator, or facility that violates R.S. 30:2373(D) the department may levy a civil penalty not to exceed \$25,000 per violation.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), repromulgated LR 14:804 (November 1988), amended LR 16:975 (November 1990), LR 27:864 (June 2001), LR 27:

§10121 Fees

A. ...

B. 1. Until June 30, 2003, the fees for facilities not meeting the definition of "small business" in R.S. 30:2363 shall be assessed as follows:

Number of Hazardous Materials Present at Facility	Amount of Fees Charges
01 to 25	\$ 65
26 to 75	\$ 85
76 to 100	\$170
Over 100	\$255

B.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), repromulgated LR 14:804 (November 1988), amended LR 16:975 (November 1990), LR 27:864 (June 2001), LR 27:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments to Paul Schexnayder, P. O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2001.

Jerry Jones
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Hazardous Materials Right to Know

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no costs incurred and no savings realized as a result of the implementation of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a negative impact on revenue collections of the state, with no effect on revenue collections of local government units. Tier Two chemical inventory filing fees which are paid to the Louisiana State Police will be reduced by roughly 15 percent, which equates to an annual revenue loss of \$80,000 (\$540,000 - \$460,000).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Facilities that manufacture, use, or store hazardous materials will benefit by paying approximately 15 percent less in Tier Two chemical inventory filing fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules will have no effect on competition or employment.

Jerry W. Jones
Undersecretary
0109#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Motor Vehicle Inspection
(LAC 55:III.Chapter 8)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with R.S. 49:950 et seq. and R.S. 32:1301 et seq. gives notice of its intent to amend its rules regulating vehicle inspections by now requiring the performance of an on-board diagnostic systems test as well as providing for immediate suspension of any inspection station which fails to perform such test.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 8. Motor Vehicle Inspection

Subchapter B. Safety Inspections

§805 Requirements, Duties, Responsibilities

A. - E.1.i. ...

j. on board diagnostic systems test equipment and evaporative system test equipment which includes gas cap pressure test equipment as per the United States Environmental Protection Agency (US EPA) specifications. Stations must have approved equipment readily accessible and in good working order. This equipment must be in or near the inspection area. The provisions of LAC 55:III.805.E.1.j shall only apply to inspection stations located in the non-attainment area;

E.1.k. - I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:

§807. Operation as an Official Motor Vehicle Inspection Station

A. - E.8. ...

9. Until electronic submittal of data is implemented, the Louisiana Vehicle Inspection/Maintenance Parameter Form must be properly filled out by stations in the five parish non-attainment area for every vehicle which requires an emissions test. Parameter Forms should be mailed directly to the Department of Public Safety, Safety Enforcement, 527 Florida Boulevard, Room 303, Denham Springs, LA 70726. In the non-attainment area there may be separate and additional reports required as mandated by the Department of Environmental Quality. Stations within this area are to properly complete all required reports and they must be postmarked no later than Saturday, 12 noon each week.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:

Subchapter C. Vehicle Emission Inspection and Maintenance Program

§819. Anti-Tampering and Inspection and Maintenance Parameters

A. ...

B. Effective January 1, 2000, and in addition to the anti-tampering parameter checks listed in subsection A of this section, a vehicle inspection and maintenance program consisting of evaporative system pressure checks a gas cap pressure test is required on all subject vehicles 1980 and newer model year gasoline-fueled passenger cars and gasoline-fueled trucks (10,000 pounds gvwr or less) registered within the five parish non-attainment area. The non-attainment area is comprised of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge parishes.

C. Effective January 1, 2002, and in addition to the requirements outlined in Subsections A and B of this section, the performance of Onboard Diagnostic (OBD II) system checks will be required on all 1996 and newer model year gasoline-fueled passenger cars and gasoline-fueled trucks (10,000 pound gvwr or less) registered in the five parish non-attainment area. These mandatory OBD II checks are to be performed in accordance with the federal Amendments to Vehicle Inspection Maintenance Program Requirements Incorporating the Onboard Diagnostic Check, Final Rule at 40 CFR Parts 51 and 85 as published in *Federal Register*, Thursday, April 5, 2001 (Volume 66, pages 18156 - 18179).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 -1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:

Subchapter E. Administrative and Audit Procedures

§833. Investigations; Administrative Actions; Sanctions

A. - B. ...

C. The Department may immediately and temporarily suspend the license of a Motor Vehicle Inspection station prior to providing an administrative hearing when it is determined that the station has violated any of the provisions of LAC 55:III.819. In the event of such an immediate and temporary suspension of its license, the station is entitled to an administrative hearing to be held within 14 days of the initial date of suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments to Paul Schexnayder, P. O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2001.

Jerry Jones
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Motor Vehicle Inspection**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be minimal costs incurred and no savings regarding the adoption of these rules. The only cost will be to state and local governmental units in the five parish non-attainment area that inspect their own vehicles, as they will have to purchase the testing equipment required by these rules at an estimated cost of \$1,700.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only cost will be to inspection stations in the five parish non-attainment area who will pay an estimated \$1,700 to purchase the equipment required by these rules as well as possibly having to purchase a computer, printer, monitor, and Internet access if the station does not already have such. In addition, there may be possible ancillary costs for maintenance and upgrades of this equipment. Benefits to the affected stations include less paperwork, reduction in time required to perform an inspection, and less postage costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The cost of the testing equipment by these rules may result in some inspection stations finding it cost prohibitive to remain in the Motor Vehicle Inspection program.

Jill P. Boudreaux
Deputy Undersecretary
0109#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Revenue
Policy Services Division**

Manufactured and Mobile Home Settlement Fund
(LAC 61:I.4313)

Under the authority of Act 1212 of the 2001 Regular Legislative Session and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, proposes to enact LAC 61:I.4313 to establish procedures for the administration of the Manufactured and Mobile Home Settlement Fund.

This rule is necessary to allow the Department of Revenue to carry out the requirements of Act 1212 of the 2001 Regular Legislative Session, which was enacted to resolve

certain suits against the state related to the state sales and use taxes assessed on the purchase of certain manufactured and mobile homes. This Act requires the secretary to promulgate rules and regulations to process claims against the state regarding state sales tax paid on the purchase of manufactured and mobile homes. This rule supplements the Declarations of Emergency regarding the Manufactured and Mobile Home Settlement Fund that were effective September 1, 2001, and September 10, 2001.

The full text of this proposed rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents regarding the Education and Supervision of their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will benefit families that purchased a manufactured or mobile home between January 1, 1998, and July 1, 2001, and are not party to any of the lawsuits against the state related to the purchase of manufactured or mobile homes. These families could qualify for a rebate for state sales taxes paid on these purchases.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a local Government to Perform the Function as contained in the proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to (225) 925-3855. All comments must be submitted by 4:30 p.m., Friday, October 26, 2001. A public hearing will be held on Tuesday, October 30, 2001, at 9:00 a.m. in the First Floor Auditorium (Room 153) at the United Plaza Twelve Building, 8549 United Plaza Boulevard, Baton Rouge, Louisiana.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Manufactured and Mobile Home
Settlement Fund**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The cost to implement this proposed regulation, which establishes procedures for administering the Manufactured and Mobile Home Settlement Fund created by Act 1212 of the 2001 Regular Legislative Session, will be approximately \$172,000 for printing, mailing, programming, and operational costs. However, all expenses for administering the fund will be paid from the fund.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation. However, any residual money in the Manufactured and Mobile Home Settlement Fund after distributions and reimbursement for administering the fund will be deposited into the state general fund.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed regulation benefits persons that purchased a manufactured or mobile home from January 1, 1998, through June 30, 2001, and are not a party to any to the legal cases associated with the purchase of a manufactured or mobile home. The state has approximately \$28 million in escrow that will be used to pay judgments in lawsuits related to manufactured and mobile homes and then distributed to other purchasers of manufactured and mobile homes who made such purchases from January 1, 1998, to June 30, 2001.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0109#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

FITAPCTime Limit Exemptions
(LAC 67:III.1223 and 1247)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance for Needy Families (TANF) Block Grant, the agency proposes to amend §1247 by allowing certain exceptions to the 60-month time limit for FITAP benefits. Whereas federal regulations establish a lifetime limit of 60 months for TANF assistance to families that include an adult or minor parent head of household with exceptions for certain hardship situations. The agency now proposes to provide for such hardship exemptions that can be applied to the 60-month limit which are also applicable to the state 24-month limit. Alignment of the hardship exemptions for the 60-month time limit with those for the

24-month time limit will simplify administration of the program and allow FITAP recipients an extended period of time to gain the skills, training, and/or education necessary to become self-sufficient. Specification of hardship exemptions for the 60-month time limit is needed at this time because families who have been receiving FITAP continuously since implementation of the federal 60-month time limit policy will have exhausted their 60th month time limit by January, 2002. §1223 is being updated to include non-citizen nationals.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 2. Family Independence Temporary Assistance
Program (FITAP)**

**Chapter 12. Application, Eligibility, and Furnishing
Assistance**

Subchapter B. Conditions of Eligibility

§1223. Citizenship

A. Each FITAP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

A.1. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 26:1342 (June 2000), LR 27:

§1247. Time Limits

A. - C. ...

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a life-time limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless one of the following hardship exemptions apply (in households with two caretaker relatives, both caretaker relatives must meet at least one of these criteria):

1. the caretaker relative is incapacitated or disabled;
2. the caretaker relative has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;
3. factors relating to job availability are unfavorable;
4. the caretaker relative loses his job as a result of factors not related to his job performance;
5. an extension of benefits of up to one year will enable the adult to complete employment-related education or training; or
6. hardships have occurred which affect the caretaker relative's ability to obtain employment.

E. Any month for which such assistance was provided will be disregarded with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6., R.S. 46:460.5(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 26:349 (February 2000), LR 27:

Family Impact Statement

1. What effect will this rule have on the stability of the family? This rule should have no effect on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family?

This rule could improve the functioning of the family by allowing some families who meet the criteria for exemptions to continue receiving cash assistance after they have reached the 60-month lifetime limit.

4. What effect will this have on family earnings and family budget? This rule could have a positive impact on the family budget if the household continues to receive cash assistance after reaching the 60-month time limit as a result of meeting one of the listed criteria for exemptions. This assistance may benefit families in financial distress.

5. What effect will this have on the behavior and personal responsibility of children? This rule should have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, this program is strictly an agency function.

Interested persons may submit written comments by October 30, 2001 to Ann S. Williamson, Assistant Secretary, Office of Family Support, P. O. Box 94065, Baton Rouge, LA, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on October 30, 2001 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

J. Renea Austin-Duffin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: FITAPC Time Limit Exemptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the amended eligibility requirement at §1247.D will increase state costs by allowing certain Family Independence Temporary Assistance Program (FITAP) recipients to continue receiving cash assistance beyond the 60-month lifetime limit due to hardship. There is no available data on this specific area; however, the number of assistance units affected would be expected to be minimal and any associated Family Independence Temporary Assistance Program (FITAP) benefits would be paid from the Louisiana Temporary

Assistance for Needy Families (TANF) Block Grant which is federally funded. The amendment to §1223 regarding non-citizen nationals would not result in an increase or decrease in costs or savings as there is no known "non-citizen nationals" population in Louisiana at this time. The minimal cost of publishing the rule and printing policy changes is routinely included in the agency's annual budget.

There will be no costs to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

FITAP recipients who meet one of the listed criteria will continue to receive benefits as a result of the exceptions to the 60-month time limit. There is no available data on which to project numbers of affected cases or the amount of FITAP benefits which could be involved. The amendment to §1223 regarding non-citizen nationals would not result in an increase or decrease in costs or savings as there is no known "non-citizen nationals" population in Louisiana at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0109#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Kinship Care Subsidy ProgramC
Custody and Citizenship Requirements
(LAC 67:III.5323 and 5327)

The Department of Social Services, Office of Family Support, proposes to amend the LAC 67:III, Subpart 13, the Kinship Care Subsidy Program (KCSP).

Pursuant to Act 947 of the 2001 Regular Session of the Louisiana Legislature, the agency proposes to amend §5327 to allow a qualified relative care-giver up to one year in which to obtain legal custody or guardianship of a minor relative child who resides in the care-giver's home. §5323 is being updated to include non-citizen nationals.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 13. Kinship Care Subsidy Program (KCSP) Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5323. Citizenship

A. Each KCSP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

A.1. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), LR 27:

§5327. Living in the Home of a Qualified Caretaker Relative

A. A child must reside in the home of a qualified caretaker relative who is responsible for the day-to-day care of the child and who has legal custody or guardianship of the child. The child's parents may not reside in the home. Legal custody or guardianship must be obtained by the caretaker relative within one year of certification of benefits. Failure to obtain such custody within 12 months of certification will result in cessation of benefits. Benefits will not be denied when the qualified caretaker relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified caretaker relatives:

A.1. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), LR 27:

Family Impact Statement

1. What effect will this rule have on the stability of the family? Implementation of this rule will have a positive impact on the stability of eligible families by allowing a qualified relative up to one year to obtain legal custody or guardianship of a minor relative thereby enabling more care givers to take advantage of the program rather than relying on Foster Care Services.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The functioning of the family will be positively impacted due to a reduction in the financial strain created by the child's presence in the home of the qualified caretaker relative.

4. What effect will this have on family earnings and family budget? There will be no impact on family earnings. There will be a favorable impact on the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This rule will not impact the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, this action is strictly a function of the state.

Interested persons may submit written comments by October 30, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on October 30, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Kinship Care Subsidy
ProgramC Custody and Citizenship Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule will increase costs by making more applicants eligible; however, this number cannot be projected. Kinship Care Subsidy Program (KCSP) benefits are paid from the Louisiana Temporary Assistance for Needy Families (TANF) Block Grant which is federally funded. The minimal cost of publishing the rule and printing policy changes is routinely included in the agency's budget. KCSP currently serves 2835 recipients. The grant amount is \$222 per month per child. As of July 1, 2001, the agency has expended \$637,563 in program funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A number of applicants may become eligible for a KCSP grant as a result of being given additional time in which to obtain legal custody or guardianship of a minor relative. Since this is a new condition of eligibility, neither the number of applicants nor the economic benefit can be estimated. There is no known "non-citizen nationals" population in Louisiana at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0109#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Support Enforcement Services CSuspension of Licenses
(LAC 67:III.2545)

The Department of Social Services, Office of Family Support, proposes to amend the LAC 67:III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Act 612 of the 2001 Regular Session of the Louisiana Legislature provides this program with the authority to suspend the professional, occupational, business, industrial, and motor vehicle or operator licenses of noncustodial parents who are seriously delinquent in payment of

court-ordered child support. Pursuant to this authority, SES proposes new §2545.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter L. Enforcement of Support Obligations

§2545. Administrative Suspension of Licenses Issued by the State of Louisiana

A. SES may administratively suspend licenses of child support obligors who are not in compliance with an order for support. License suspension will be considered if income assignment is not effective, or if the obligor is not making payments or is making only sporadic payments. An obligor shall meet one of the following criteria to be considered for license suspension:

1. delinquent at least 90 days in the payment of support; or
2. has failed to provide and/or maintain health insurance ordered by a court.

B. SES will send a notice of the intent to suspend licenses to the obligor by certified mail with return receipt requested. If anyone in the obligor's household accepts the notice, it shall be considered as successfully served on the obligor. The notice will provide information concerning the following:

1. the municipal address and telephone number of the office that issued the notice;
2. the docket number and court which issued the order of support;
3. the amount of past-due support;
4. what the obligor must do to comply;
5. a summary of the obligor's right to file a written objection to the suspension of licenses and a description of the administrative hearing process; and
6. the right of an unobligated spouse to provide SES with a notarized affidavit in order to retain use of a shared vehicle.

C. Within 20 days of receipt of the notice, the obligor may act in the following manner to forestall license suspension. SES shall certify the obligor's non-compliance to the appropriate licensing authorities if the obligor fails to act as detailed in this matter.

1. The obligor may enter into a written agreement to pay current and past-due support. If an obligor fails to comply with the terms of a written agreement, SES may proceed with license suspension without further notice.

2. The obligor may file a written objection requesting an administrative hearing to determine whether the obligor is in compliance with an order of support. If the hearing authority rules that the obligor is in arrears with the support order and all legal delays have elapsed, SES shall proceed with license suspension without further notice.

3. The obligor may provide acceptable evidence of the inability to pay.

D. Upon timely receipt of written objection, the administrative hearing authority will schedule and notify obligor of the time and place of the hearing. Such hearing may be conducted by telephone or other electronic media. A decision shall be rendered within 90 days of receipt of the written objection.

E. For a driver's or vehicular license, SES shall be sensitive to the obligor's needs to retain the license for work purposes or to provide medical transportation to a dependent person. In some situations, SES may suspend driving privileges for specific times of the day or for specific days of the week.

F. SES shall issue a release certificate if an obligor becomes compliant with a support order and is eligible to have a license reissued. Such certificate will be sent to the agency or authority that suspended the obligor's license.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 9:315.40 et seq.; 42 U.S.C. 666.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, Support Enforcement Services, LR 27:

Family Impact Statement

1. What effect will this rule have on the stability of the family? The proposed rule will have a positive effect on the children in need of support from a noncustodial parent, as it is anticipated that the threat of suspending licenses will prompt the obligor to pay past-due child support that is owed to the children, as well as, meet current obligations. If the obligor has a current family to support, the effect of losing licenses for failure to pay court-ordered child support may impact that family negatively. However, consideration is given allowing the obligor to retain restricted use of a motor vehicle for work purposes. Also, any vehicle used by the unobligated spouse may be excluded from license suspension.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? If the obligor does not sign a written agreement or fails to pay past due support, his/her current family would be affected by loss of licenses.

4. What effect will this have on family earnings and family budget? This rule may improve the family budget of certain child support recipients as they may receive support as ordered by the court.

5. What effect will this have on the behavior and personal responsibility of children? Receiving child support to help meet the needs of the children may indirectly have a positive effect on their behavior and/or personal responsibility.

6. Is the family or local government able to perform the function as contained in this proposed rule? SES is the sole state agency governing the collection of child support.

All interested persons may submit written comments through October 30, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 30, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working

days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Support Enforcement
Services CSuspension of Licenses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The only immediate cost to state government is the minimal cost of printing policy revisions and publishing the rulemaking. License suspension represents another tool for the improved collection of court-ordered child support. No savings to the state are anticipated, and no costs or savings to local governmental units are anticipated.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule should increase child support collections by Support Enforcement Services since noncustodial parents should attempt to pay support to avoid having licenses suspended for delinquent payments; however, there is no way to anticipate or measure the effect. There will be no effect on local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Increased payments will benefit the children of the obligor in child support matters; likewise, the obligor pays the cost of that support. No means are available to measure the anticipated benefits or costs that will result from this rule change. There is no effect on any non-governmental group.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0109#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**TANF Initiatives CStarting Points
(LAC 67:III.5501)**

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III to establish Subpart 15, Temporary Assistance For Needy Families (TANF) Initiatives, and adopt new Section 5501, the Starting Points Early Childhood Development Program.

For the previous eight years the agency has funded the Starting Points Early Childhood Development Program from the Child Care and Development Fund. This school-year program is administered by the Department of Education. The agency has chosen to now include Starting Points as a TANF Initiative funded with monies from Louisiana's TANF Block Grant rather than child care monies. An emergency rule was necessary effective August 1, 2001, in order to use

the new funding source to continue the services of the program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

**§5501. Starting Points Early Childhood Development
Program**

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to provide quality, early childhood education to certain four-year-old children.

B. These services meet the TANF goal of encouraging the formation and maintenance of two-parent families by providing at-risk families with quality early childhood education to four-year-old children, as well as providing support to the parents in obtaining higher literacy levels, crisis intervention, and positive parenting skills resulting in greater financial and familial stability. Children placed in quality education programs at an early age are more likely to become contributing members of society by developing responsible behaviors and an interest in learning that will eventually lead to graduation. High quality pre-school programs for at-risk children have been shown to result in more positive outcomes relative to academic achievement, resistance to substance abuse and other criminal activities, lower levels of teen pregnancy, and good mental health.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered by the agency as non-assistance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

Family Impact Statement

1. What effect will this rule have on the stability of the family? Family stability is the ultimate intent of this rule, that is, it represents an early childhood intervention to improve intellectual and social behavior of certain at-risk children.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The program aims to involve and improve the parent's view of education and supervision of their children.

3. What effect will this have on the functioning of the family? The program strives to affect immediate and long-term improvement of the functioning of the family unit.

4. What effect will this have on family earnings and family budget? This rule has no immediate effect on either.

5. What effect will this have on the behavior and personal responsibility of children? Improvement in behavior and personal responsibility is a primary goal of this preschool, education program.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, the program is specifically for a family that is considered to be functionally at-risk, and TANF funds to promote the formation and maintenance of two-parent families are administered by state government.

All interested persons may submit written comments through October 30, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 30, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: TANF Initiatives C Starting Points

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no new implementation costs for the Starting Points Early Childhood Development Program. This is an ongoing program that was previously funded by the Child Care and Development fund and will now be funded by the federal Temporary Assistance to Needy Families (TANF) Block Grant to Louisiana. \$5,019,000 per fiscal year will be provided to the Department of Education to continue the funding of Starting Points. The cost to publish rulemaking is routinely included in the agency's annual budget. There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule has no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will not result in costs or economic benefits to any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment

Ann S. Williamson
Assistant Secretary
0109#054

H. Gordon Monk
Director
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass C Daily Take and Size Limits (LAC 76:VII.149)

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following rule on black bass (*Micropterus spp.*) harvest restrictions on Concordia Lake located east of Ferriday in Concordia Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations C Daily Take and Size Limits

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

1. Caney Creek Reservoir (Jackson Parish)

a. Size limit: 15-inch to 19-inch slot. A 15 to 19-inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

b. Daily take: 8 fish of which no more than 2 fish may exceed 19 inches maximum total length.*

c. Possession limit:

i. on water-same as daily take;

ii. off water-twice the daily take.

2. Black Bayou Lake (Bossier Parish), Chicot Lake

(Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14-inch to 17-inch slot. A 14- to 17-inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length.*

c. Possession limit:

i. on water-same as daily take;

ii. off water-twice the daily take.

3. False River (Pointe Coupee Parish)

a. Size limit: 14-inch minimum size limit.

b. Daily Take: 5 fish.

c. Possession limit:

i. on water-Same as daily take;

ii. off water-twice the daily take.

*Maximum total length-the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 27:

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., November 7, 2001.

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.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Dr. H. Jerry Stone
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Black Bass Daily Take and Size Limits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Sport fishermen who fish in Concordia Lake will be affected by the proposed action, since they will no longer have to release black bass between 15 and 19 inches. Biologists' investigations of the fishery shows that angler pressure on this lake has never reached levels needed to produce results that were expected from the Black Bass Management Plan. The proposed rule will have no effect on costs and/or economic benefits to sport fishermen at Concordia Lake.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule should have no impact on competition and employment in the public and private sectors.

James L. Patton
Undersecretary
0109#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 3-4, 2001, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, Louisiana. The deadline for sending the application and fee is as follows:

New Candidates:	September 7, 2001
Re-Take Candidates:	September 21, 2001
Reciprocity Candidates:	November 16, 2001

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to September 7, 2001. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0109#006

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

M/V Westchester Crude Oil Discharge

Agencies: National Oceanic and Atmospheric Administration (NOAA); United States Department of the Interior (DOI) which is represented by the U.S. Fish and Wildlife Service (USFWS); Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF).

Action: Notice of availability of a Draft Damage Assessment and Restoration Plan/Environmental Assessment, and of a 30-day state and federal period for public comment on the plan.

Summary: Pursuant to 15 C.F.R. §990.23 and 15 C.F.R. §990.55(c) and LAC 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Draft Damage Assessment and Restoration Plan and Environmental Assessment, M/V Westchester Crude Oil Discharge, Lower Mississippi River, Louisiana, November 28, 2000" (Draft DARP/EA) will become available for public review and comment on September 27, 2001. This document is being prepared by the agencies listed above (the Trustees) to address natural resource injuries and losses of service following the

November 28, 2000 vessel grounding and subsequent discharge of crude oil into the Lower Mississippi River, Louisiana (the Incident). This document presents the Trustees' assessment of the natural resource injuries and losses of ecological services attributable to this Incident, and their proposed plan to restore, replace or acquire resources or services equivalent to those lost as a basis for compensating for the natural resource injuries and losses of service that occurred. The Trustees will consider comments received during the public comment period before finalizing the document. Public review of the Draft DARP/EA is consistent with all state and federal laws and regulations that apply to the natural resource damage assessment process, including Section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. §2706; the regulations for natural resource damage assessment under OPA, 15 C.F.R. Part 990; National Environmental Policy Act (NEPA), 42 U.S.C. §4321, et seq.; the regulations implementing NEPA, 40 C.F.R. §1500, et seq.; Section 3480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), L.R.S. 30:2480; and the regulations for natural resource damage assessment under OSPRA, LAC 43:XXXIX, Chapter 1.

Dates: Comments must be submitted in writing on or before October 27, 2001.

For Further Information: For further information contact: John Kern, at (727) 570-5391 ext. 158, email: john.kern@noaa.gov, or Warren P. Lorentz, at (225) 219-5800, email: wlorentz@losco.state.la.us.

ADDRESSES: Requests for copies of the Draft DARP/EA should be sent to John Kern of NOAA, 9721 Executive Center Drive, N., Suite 114, St. Petersburg, FL 33702 or Warren Lorentz, LOSCO, 625 N. 4th Street, Suite 800, Baton Rouge, LA 70802. Written comments on the plan should be sent to either John Kern of NOAA or to Warren P. Lorentz of LOSCO at the same addresses as listed above.

Supplementary Information: At around 6:20 p.m. CST on November 28, 2000, the U.S. Coast Guard Marine Safety Office in New Orleans was notified that the M/V Westchester lost steerage because of a crankcase explosion while transiting the Mississippi River at Mile Marker (MM) 38 (measured from the Head of Passes) in Plaquemines Parish, Louisiana. The vessel grounded and leaked approximately 550,000 gallons or more of sweet Nigerian crude oil into the river from the holed #1 starboard cargo tank. The Mississippi River was closed between MM 38 and MM 9 on November 29, 2000. The river was opened to two-way traffic on December 1, 2000.

Oil from the vessel moved down river before most of it became trapped along the West Bank in rip-rap areas and sloughs. Most of the black oil remained trapped along the West Bank, although sheens were observed in marsh tidal creeks and bayous such as Grand Pass. Sheens also passed through cuts in the river levee into open water and marshes below Venice. Response efforts were quickly mounted, including placing booms at key bayous and cuts and deploying skimmers to collect oil from the water surface. Although response actions were undertaken, natural

resources were exposed to the oil, including marsh, shorelines, birds, and water column organisms. A variety of injuries and lost uses of natural resources were documented as a result of that exposure. Access to recreational sites was reduced because of the Incident, thereby affecting human recreational uses of the area.

The incident is subject to the authority of OPA, 33 U.S.C. §2701, et seq.; the Federal Water Pollution Control Act (FWPCA or Clean Water Act), 33 U.S.C. §1251, et seq.; and OSPRA, L.R.S. 30:2451, et seq. NOAA, DOI/USFWS, LOSCO, LDEQ, LDNR, and LDWF are Trustees for natural resources pursuant to Section 2706 of OPA, 33 U.S.C. §2706; Section 311 of the Clean Water Act, 33 U.S.C. §1321; Subpart G of the National Contingency Plan, 40 C.F.R. §§300.600-300.615; and, in the case of the Louisiana Trustees, OSPRA, L.R.S. 30:2451, et seq., and in the case of the Federal Trustees, Executive Order 12777. As a designated Trustee, each agency is authorized to act on behalf of the public under state and/or federal law to assess and recover natural resource damages, and to plan and implement actions to restore natural resources and resource services injured or lost as the result of an incident.

Pursuant to Section 1006 of OPA (33 U.S.C. §2706) and Section 2480 of OSPRA (L.R.S. 30:2480), the designated natural resource Trustees have conducted a damage assessment for this Incident to evaluate potential injuries to natural resources and services, and to determine the need for and scale of restoration actions required. The Draft DARP/EA discusses the natural resources and services, including human recreational use, believed to be affected by the Incident, details the assessment procedures used, outlines the restoration alternative selection and scaling process, and identifies the preferred restoration alternatives to address natural resource injuries and losses of service. The Trustees determined that injured natural resources and services have largely returned to baseline conditions, and are expected to fully return to baseline without requiring any further actions. However, the Trustees have determined that there have been interim losses to habitat services, birds, aquatic fauna, and recreational use that require compensatory restoration to make the environment and the public whole for these losses. Under the preferred restoration alternative, a crevasse will be cut through the bank of South Pass on the Pass-A-Loutre State Wildlife Management Area to allow the formation of a splay marsh that is expected to provide sufficient ecological benefits to compensate for all ecological injuries. Construction of a boat dock and minor improvements to a currently unimproved area on the South Pass on the Pass-A-Loutre State Wildlife Management Area, used for camping, will enhance access to the resources of the management area and vicinity. These actions will compensate the public for the loss of recreational access to the areas' resources during the Incident.

Interested members of the public are invited to request a copy of the Draft DARP/EA from and to submit written comments to either John Kern or Warren P. Lorentz at the addresses given above. All written comments will be

considered by NOAA, DOI/USFWS, LOSCO, LDEQ, LDNR, and LDWF in finalizing the DARP/EA.

Roland Landry
Oil Spill Coordinator

0109#039

POTPOURRI

Department of Insurance Office of the Commissioner

Bulletin 01 -03

To: All Admitted Insurance Companies, Licensees and Interested Parties

From: J. Robert Wooley, Acting Commissioner

Re: Act 205 - Workers' Compensation Programs

Date: August 20, 2001

This Bulletin is to notify all persons and entities licensed or authorized to transact business in the State of Louisiana of Act No. 205 of the 2001 Louisiana Legislative Session. Act No. 205, effective August 15, 2001, amends LSA-R.S. 23:1174.1(A) and adds LSA-R.S. 23:1174.1(A)(2) relative to workers' compensation programs in the following respects:

Current law permits several methods by which an employer can secure workers' compensation to his employees, including:

...insuring and keeping insured the payment of such compensation with any stock corporation, mutual association, or other concern authorized to transact the business of workers' compensation insurance in this state, including group self insurance as authorized by R.S. 23:1191 et seq. LSA-R.S. 23:1168(A)(1)

Current law also prohibits establishing any unreasonable criteria, policies, or procedures designed to discriminate against a contractor or subcontractor based upon securing their workers' compensation obligation through anyone of the entities described in R.S. 23:1168 above, including a group self insurer. LSA-R.S. 23:1174.1(A)

Act 205 extends this prohibition of discrimination against any employer to insurance companies writing umbrella insurance policies in this state. LSA-R.S. 23:1174.1(A)(2)

J. Robert Wooley
Acting Insurance Commissioner

0109#005

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	District	Well Name	Well Number	Serial Number
Edwin A. Epstein, Jr.	North Sabine Lake	L	SL 14838	001	221428
Edwin A. Epstein, Jr.	Mount Common Church	L	Bennett	002	211628
Florida Exploration Company	Unknown Pass	L	7900 RA SUC; L&N RR	003	133702 (30)
McCormick O&G & Crown Central	Wildcat	L	B. Rosenberg & Sons Inc	001	137554 (29)
McElmury-Hamilton	Caddo Pine Island	S	Mattson	001	23293
Trans-Gulf Petroleum Corp.	Wildcat	S	Wadley-Files	001	149426

Philip N. Asprodites
Commissioner

0109#058

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 28 claims in the amount of \$88,844.21 were received for payment during the period July 1, 2001 - August 31, 2001. There were 26 claims paid and 2 claims denied.

Loran Coordinates of reported underwater obstructions are:

26699	46978	Cameron
27359	46937	Vermilion
27887	46854	Terrebonne
27890	46864	Terrebonne
28547	46856	Jefferson
28621	46870	Jefferson

Latitude/Longitude Coordinates of reported underwater obstructions are:

2911.040	8929.010	Plaquemines
2912.515	8928.491	Plaquemines
2916.241	8957.376	Jefferson
2920.358	9037.694	Terrebonne
2924.949	9058.073	Terrebonne
2935.058	8929.318	Plaquemines
2938.553	9010.048	Jefferson
2939.158	8950.176	Plaquemines
2941.074	8927.016	St Bernard
3009.015	8924.643	Vermilion

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396, Baton Rouge, LA 70804 or by calling (225) 342-0122.

Jack C. Caldwell
Secretary

0109#032

POTPOURRI

**Department of Transportation and Development
Sabine River Compact Administration**

Fall Meeting Notice

The fall meeting of the Sabine River Compact Administration will be held at the Marriott River Center, San Antonio, Texas, October 26, 2001, at 8:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the By Laws of the Sabine River Compact Administration.

The spring meeting will be held at a site in Louisiana to be designated at the above described meeting.

Contact person concerning this meeting is:

Kellie Ferguson, Secretary
Sabine River Compact Administration
15091 Texas Highway
Many, Louisiana 71449
(318) 256-4112

Kellie Ferguson
Secretary

0109#040

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PPMXPolicy and Procedure Memoranda
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