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EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 94-29

EXECUTIVE ORDER EWE 94-28

WHEREAS: Executive Order No. EWE 92-5 was executed to develop the economic and cultural relationship between the State of Louisiana and the continent of Africa; and

WHEREAS: the Louisiana Task Force on African Trade, Finance, and Development, as created by Executive Order No. 92-5, could perform its duties and functions in a more efficient and effective manner with the assistance of one additional at-large member;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the constitution and laws of the state of Louisiana, do hereby amend and reenact Executive Order No. EWE 92-5 as follows:

SECTION 1: The Louisiana Task Force on African Trade, Finance, and Development shall be composed of one additional at-large member:

SECTION 2: All other orders and directions of Executive Order No. EWE 92-5 remain in effect.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state or any political subdivision thereof are authorized and directed to cooperate with the Louisiana Task Force on African Trade, Finance, and Development in implementing the provisions of this executive order.

SECTION 4: The provisions of this executive order are effective upon signature, and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this 15th day of August, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9409#002

WHEREAS: the governor's primary concern is the public safety of the citizens of the State of Louisiana; and

WHEREAS: the citizens of Louisiana identify crime as a major problem coupled with the need accountability in the criminal justice system; and

WHEREAS: there is an increased willingness among criminal justice agencies to cooperate in order to resolve crime and related issues; and

WHEREAS: the state needs to make optimum use of existing prison bed space in order to assure that violent and dangerous individuals are incarcerated and incapacitated; and

WHEREAS: there is a need to identify and implement appropriate alternative sanctions for non-violent offenders; and

WHEREAS: the state must identify ways to contain the escalating cost of the criminal justice system while concurrently accomplishing the goals of the system and respecting the legitimate concerns of the victims of crime;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the authority vested in me by the constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Governor's Prison Population, Sentencing Practices, and Alternative Sanctions Task Force is hereby established in the Department of Public Safety and Corrections.

SECTION 2: The task force shall be composed of the following members:

A. the secretary of the Department of Public Safety and Corrections or his designee;

B. the attorney general or his designee;

C. the president of the senate or his designee;

D. the speaker of the house of representatives or his designee;

E. the commissioner of the Division of Administration or his designee;

F. the chairman of the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice or his designee;

G. the executive director of the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice or his designee;

H. the chairman of the Louisiana Sentencing Commission or his designee;

I. the president of the Louisiana Sheriff's Association or his designee;

J. a sheriff designated by the Louisiana Sheriff's Association;

K. the president of the District Attorneys Association or his designee;

L. a district attorney designated by the District Attorneys Association;

M. the president of the District Judges Association or his designee;

N. a judge designated by the District Judges Association;

O. the director of the Louisiana Law Institute or his designee;

P. an additional member of the Louisiana Law Institute;

EXECUTIVE ORDER EWE 94-30

Q. the president of Victims and Citizens Against Crime or his designee;

R. a representative of the Children's Code Committee;

S. a member designated by the governor;

T. a member designated by the secretary of the Department of Public Safety and Corrections;

U. the chairman of the Parole Board or his designee;

V. chairman of the Pardon Board or her designee;

W. the director of the Office of Correctional Studies at the Louisiana State University or his designee;

SECTION 3: Each member appointed by the governor shall serve at the pleasure of the governor.

SECTION 4: The duties of the task force are:

A. review relevant portions of sentencing laws;

B. examine "truth in sentencing" issues;

C. review existing laws governing good time;

D. review rules and laws governing release on parole or by executive clemency;

E. review existing state and local prison bed space;

F. identify appropriate alternative sanctions;

G. develop short and long-term strategies to address the issues under study by the task force;

H. propose legislation to implement any needed changes in law; and

I. design a mechanism for continuous monitoring of issues under study by the task force.

SECTION 5: The secretary of the Department of Public Safety and Corrections shall serve as the chairman of the task force.

SECTION 6: The task force shall meet at least quarterly and at other times on call of the chairman. A majority of the members shall constitute a quorum.

SECTION 7: The task force shall submit a written report to the governor and the legislature by February 1, 1995.

SECTION 8: The staff of the Department of Public Safety and Corrections shall serve as the staff of the task force.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of August, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9404#003

WHEREAS: Louisiana and the entire nation face a rising violent crime problem; and

WHEREAS: the families of Louisiana and the entire nation suffers as a result of rising violence; and

WHEREAS: providing early intervention, at the family level, has proven to be an effective deterrent to rising violence; and

WHEREAS: in 1992, New Orleans was one of only five cities, nationwide, to receive a three-year Toyota Family Literacy Award from the National Center for Family Literacy; and

WHEREAS: over the past three years, the program has achieved outstanding results for families who reside in high crime neighborhoods; and

WHEREAS: the adults and children participating in the program made remarkable academic progress; and

WHEREAS: individuals engaged in the program who had earlier dropped out of high school went back to win scholarships to college; and

WHEREAS: many of those participating in the program who had been on welfare removed themselves from the welfare rolls; and

WHEREAS: the children participating in the program have neither been required to repeat a grade nor become involved with law enforcement; and

WHEREAS: President of Toyota Motor Corporate Services of North America, Kumio Shimazu, and President of the National Center for Family Literacy, Sharon Darling, acknowledged the New Orleans efforts one of the more successful in the nation;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The creation of a statewide Family Literacy Advisory Council.

SECTION 2: The council shall be composed of 13 members who shall be appointed as follows:

A. one member, from the Louisiana House of Representatives, shall be appointed by the speaker of the house;

B. one member, from the Louisiana Senate, appointed by the president of the senate;

C. the executive director of the Office of Lifelong Learning shall chair the council and shall appoint:

1. the secretary of the Department of Social Services or her designee;

2. the state superintendent of education or his designee;

3. the president of the Board of Elementary and Secondary Education or his designee;

4. a representative of the business community;

5. a representative of organized labor;

6. a community-based organization leader;

7. the director of Gheens Foundation For Education and Community;

8. the director of the Lindy Boggs Center;

9. the director of the Office of Rural Development;

10. a representative of the National Center for Family Literacy.

SECTION 3: All members shall serve at the pleasure of the governor.

SECTION 4: The members of the council shall receive no compensation for their services, members shall serve at their own expense.

SECTION 5: The duties and functions of the council shall be as follows:

A. to develop a comprehensive Family Literacy Plan for Louisiana by June 30, 1995;

B. to assist in the organization of a Louisiana Family Literacy Leadership Conference by June 30, 1995;

C. to assist in the organization of a Louisiana Family Literacy Teleconference by June 30, 1995;

D. to work with the Office of Rural Development and the Gheens Foundation to implement a statewide pilot project family literacy program.

SECTION 6: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with Family Literacy Advisory Council in implementing the provisions of this executive order.

SECTION 7: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of August, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9409#004

EXECUTIVE ORDER EWE 94-31

WHEREAS: Executive Order No. EWE 94-7 was executed to create a special Higher Education Commission for the 21st Century within the Office of the Governor hereinafter referred to as the 21st Century Commission; and

WHEREAS: it is necessary to further amend the 21st Century Commission by adding one additional member;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the constitution and laws of the state of Louisiana, do hereby amend Executive Order No. EWE 94-7 as follows:

SECTION 1: The 21st Century Commission shall be composed of one additional member to be appointed by and serve at the pleasure of the governor.

SECTION 2: All other orders and directions of Executive Order No. EWE No. 94-7 remain in effect.

SECTION 4: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 22nd day of August, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9404#005

EXECUTIVE ORDER EWE 94-32

WHEREAS: there are no permanent rules or policies on annual and sick leave for certain unclassified state employees; and

WHEREAS: Executive Order No. BR 88-23 provided rules and policies on annual and sick leave for certain unclassified state employees; and

WHEREAS: pursuant to LSA-R.S. 49:215(C), Executive Order No. BR 88-23 will terminate on August 21, 1992;

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

SECTION 1: Applicability.

A. Except as provided in Section 1:B of this executive order, the rules and policies herein established are applicable to all officers and employees in the unclassified state service, including all appointees on leave without pay from classified positions, career employees whose classified positions have been declared unclassified by the Civil Service Commission, and all employees of the Executive Department in the Office of the Governor.

B. The rules and policies established by this executive order shall not apply to the following persons (except that any appointee on leave without pay from a classified civil service position under the auspices of the "Senior Executive Exchange Program" may, upon certification to the governor of intent to comply with Section 16 of this executive order and approval by the governor, elect to participate in the provisions of this order):

1. department secretaries, undersecretaries, deputy secretaries, assistant secretaries, and confidential assistants, including their equivalents appointed by elected officials and the superintendent of education;

2. other officers of the state who are appointed by the governor;

3. elected officials;

4. members of boards and commissions who are

appointed by the governor or who are elected as members of the same;

5. student employees, as defined under Civil Service Rules;

6. temporary, intermittent, and seasonal employees;

7. employees of a system that is authorized by the constitution or legislative act to manage and supervise its own system;

8. the commissioner of administration, the executive assistant commissioners of administration, the deputy commissioner of administration, and the assistant commissioners of administration;

9. the executive director or equivalent chief administrative officer of all boards, commissions, and authorities who are appointed by the board, commission, or authority;

10. officials of the executive department in the Office of the Governor with the following titles: administrative aide, assistant executive counsel, chief of staff, deputy chief of staff, deputy oil spill coordinator, director of coastal activities, director of minority affairs, director of oil spills, director of permits, director of rural development, education advisor, environmental liaison, executive assistant, executive counsel, assistant to coastal wetlands, special assistant for health care and hospitals, and special counsel.

C. The accrued annual and sick leave balances shall be held in abeyance for persons who become ineligible to earn leave pursuant to this executive order. These accrued balances shall be available to such persons when they again become eligible to earn annual and sick leave, or when they separate from state service.

D. Nothing in this executive order shall be applied in a manner which violates or is contrary to the Fair Labor Standards Act or any other applicable federal law.

SECTION 2: Definitions.

Unless the context of this executive order clearly indicates otherwise, the following words and terms shall be defined as follows:

A. *Annual leave*—leave with pay granted an employee for the purpose of rehabilitation, restoration and maintenance of work efficiency, or the transaction of personal affairs.

B. *Appointing authority*—the agency, department, board, or commission, or the officers and employees thereof authorized by statute or by lawfully delegated authority to make appointments to positions in state service.

C. *Career unclassified position*—any permanent position that was historically classified and has been declared by the State Civil Service Commission to be in the unclassified service.

D. *Compensatory leave*—time credited for hours worked outside the regularly assigned work schedule.

E. *Intermittent employee*—a person employed who is not hired on a regularly scheduled basis.

F. *Leave of absence without pay*—leave or time off from work granted by the appointing authority, for which period the employee receives no pay.

G. *Overtime hour*—an hour worked by an employee at the direction of the appointing authority:

1. on a day which is observed as a holiday in the

department and area of employment and falls on a day within the workweek, or is observed as a designated holiday in lieu of a regular holiday observed in the department;

2. in excess of the regular duty hours in a regularly scheduled workday;

3. in excess of the regular duty hours in a regularly scheduled workweek;

4. in excess of 40 hours worked during any regularly recurring and continuous seven day calendar work period where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked;

5. in excess of 80 hours worked during any regularly recurring and continuous seven day calendar work period where excessive hours are systematically scheduled. Any holiday observed during this work period is counted as a day worked;

6. in excess of the hours worked in a regularly established, continuous, and regularly recurring work period where hours average 40 hours per week, regardless of the manner in which scheduled, and where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked;

7. a day on which a department or a division thereof is closed pursuant to LSA-R.S. 1:55 by direction of the appointing authority because of an emergency.

H. *Seasonal employee*—a person employed on a non-continuous basis for a recognized peak work load period.

I. *Sick leave*—leave with pay granted employees who an illness or injury which prevents them from reporting to duty; have a medical, dental, or optical consultation or treatment; or for pregnancy.

J. *State service* for leave earning purposes shall include service in a state supported school, agency, or university; public parish school system; public student employment; and service as a member of a public board or commission. All such service must have been performed for a Louisiana public entity.

K. *Temporary employee*—a person continuously employed for a period not to exceed three calendar months.

SECTION 3: Full-time Employees.

For each full-time officer and employee, each appointing authority shall establish administrative work weeks of not less than 40 hours per week.

SECTION 4: Earning of Annual and Sick Leave.

A. Except as otherwise provided by law, the persons listed in Section 1:B of this executive order shall not earn annual or sick leave. At the discretion of their appointing authority, these persons may be granted time off for vacation, illness, or emergency.

B. Subject to the exceptions of this executive order, annual and sick leave shall be earned by all full-time and part-time officers and employees who have a regular tour of duty.

C. The earning of such leaves shall be based on the equivalent of years of full time state service and shall be creditable at the end of each calendar month, or at the end of each regular pay period, in accordance with the following general schedule:

1. less than three years of service, at the rate of .0461

hour of annual leave and .0461 hour sick leave for each hour of regular duty;

2. three years but less than five years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty;

3. five years but less than 10 years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty;

4. ten years but less than 15 years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty;

5. fifteen or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.

D. No unclassified officer or employee shall be credited with annual or sick leave:

1. for any overtime hour;

2. for any hour of leave without pay;

3. while on paid annual leave, provided that such leave earned during annual leave shall be credited upon their return to active duty;

4. for any hour in on-call status outside their regular duty hours;

5. for any hour of travel or other activity outside their regular duty hours;

6. for any hour of a holiday or other non-work day which occurs while on leave without pay.

SECTION 5: Carrying Leave Forward.

Accrued unused annual and sick leave earned by an officer or employee shall be carried forward to succeeding calendar years without limitation.

SECTION 6: Use of Annual Leave.

A. Annual leave must be applied for by the officer or employee and may be used only when approved by the appointing authority.

B. Annual leave shall not be charged for non-work days.

C. The minimum charge to annual leave records shall be in increments of not less than one-half hour.

D. An appointing authority may require an officer or employee who has sufficient annual leave to their credit to take annual leave whenever it is best for the employee or the department. However, the employee shall not be required to reduce their accrued annual leave below the equivalent of 30 working days.

E. Except for the military leave provisions in Section 13:A of this executive order, an employee may be required to take any part or all of their accrued annual leave prior to being granted leave without pay.

SECTION 7: Transfer of Annual and Sick Leave.

A. Classified employees or unclassified employees subject to this executive order shall have all accrued annual and sick leave credited to them when they transfer without a break in service into a position covered by this executive order.

B. Employees shall have all accumulated annual and sick leave credited to them when they transfer without a break in service from a department not covered by this executive order into a department covered by this executive order.

C. When an employee transfers without a break in

service to another position covered by other state leave rules, any accrued annual and sick leave shall be transferred to the new employing state department or agency. The employing department or agency shall hold the annual and sick leave in abeyance or integrate the leave into its own system. The employee's accumulated leave shall not be reduced during such integration.

SECTION 8: Payment for Annual Leave Upon Separation.

A. Upon the resignation, death, removal, or other final termination from state service of an unclassified employee, their accrued annual leave shall be paid in a lump sum, up to a maximum of 300 hours and disregarding any final fraction of an hour. The payment shall be computed as follows:

1. When employees are paid on an hourly basis, multiply their regular hourly rate received at the time of termination by the number of hours of accrued annual leave, not to exceed 300 hours.

2. When employees are paid on a basis other than an hourly basis, determine their hourly rate by converting their salary received at the time of termination to a working hourly rate. Multiply their converted hourly rate by the number of hours of accrued annual leave, not to exceed 300 hours.

B. Employees shall be given credit for the number of hours of annual leave for which they have made reimbursement. Employees shall buy back the number of hours for which they were paid which exceed the number of work hours which occurred during the break in their service, when:

1. An unclassified employee has been paid under this executive order for accumulated annual leave is reemployed in a classified or unclassified position.

2. A classified employee has been paid for accumulated leave under the Civil Service rules is reemployed in an unclassified position in leave earning status.

C. When unclassified employees in leave earning status accept positions which are not in leave earning status, they shall be paid for unused accumulated annual leave only upon final termination from state service, subject to the pay limitations provided in this executive order.

SECTION 9: Use of Sick Leave.

A. Sick leave with pay may be used by employees who have sufficient leave to their credit for the following:

1. illness or injury which prevents them from reporting to duty;

2. medical, dental, or optical consultation or treatment;

3. pregnancy.

B. A medical certificate is not required to use sick leave, but the appointing authority may require such certificate as justification for absences.

C. Sick leave shall not be charged for non-work days.

D. The minimum charge to sick leave records shall be in increments of not less than one-half hour.

E. In no instance shall an employee be paid for any accrued sick leave remaining at the time of termination from the unclassified service.

F. There shall be no advance of sick leave.

G. Annual leave and leave without pay may be granted for disability purposes at the discretion of the appointing authority.

SECTION 10: Continuance of Annual and Sick Leave.

All unpaid annual leave and all unused sick leave accrued by employees shall be credited to them if they are later employed in the unclassified service within a period of five years from date of termination, and are covered by this executive order.

SECTION 11: Compensatory Leave.

A. An appointing authority may require an employee to work overtime on a holiday or at a time that the employee is not regularly required to be on duty. Compensatory leave may be granted for overtime hours worked outside the regularly assigned work schedule or holidays at the discretion of the appointing authority.

B. If the appointing authority permits the earning of compensatory leave, then the amount of such leave shall be equal to the number of extra hours the employee is required to work.

C. Compensatory leave shall be promptly credited to the employee and may be used at a future time, with the approval of the appointing authority. Not more than 45 working days, or the equivalent thereof in hours, of accrued unused compensatory leave shall be carried forward into any calendar year.

D. An appointing authority may require employees to use their earned compensatory leave at any time.

E. At the discretion of the appointing authority, employees may be paid the value of their accrued compensatory leave upon separation from his unclassified position. The employees may only be paid an amount equal to the number of hours of compensatory leave earned, multiplied by the employee's hourly rate of pay at the time the leave was earned.

F. In the event that an employee transfers without a break in service to another position within the state service, compensatory leave may be credited to the employee at the discretion of the new appointing authority. Compensatory leave shall be terminated when an employee separates from state service.

SECTION 12: Civil, Emergency, and Special Leave.

Employees shall be given time off without loss of pay, annual leave or sick leave when:

A. performing jury duty;

B. summoned to appear as a witness before a court, grand jury, or other public body or commission;

C. performing emergency civilian duty in relation to national defense;

D. their appointing authority determines that they are prevented by an act of God from performing duty;

E. voting in a primary, general, or special election which falls on his scheduled work day, provided not more than two hours of leave shall be allowed an employee to vote in the parish where he is employed, and not more than one day to vote in a parish outside the one where he is employed;

F. participating in a state Civil Service examination on a regular work day, or taking a required examination pertinent to the examinee's state employment before a state licensing board;

G. the appointing authority determines that because of local conditions or celebrations, it is impracticable for employees in such locality to work;

H. the employee is ordered to report for pre-induction physical examination incident to possible entry into the military forces of the United States;

I. the employee is a member of the National Guard and is ordered to active duty incident to local emergency, act of God, civil or criminal insurrection, civil or criminal insurrection, civil or criminal disobedience, or similar occurrences of an extraordinary and emergency nature which threatens or affects the peace or property of the people.

J. engaged in the representation of a client in a civil or criminal proceeding pursuant to an order of a court of competent jurisdiction. If compensation for such services is available from another source, the employee may not accept the special leave and the compensation.

K. the employee is a current member of Civil Air Patrol and incident to such membership is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed 15 working days in any one calendar year and shall not be used for unit meetings or training conducted during such meetings.

SECTION 13: Military Leave.

A. An employee who is a member of a reserve component of the armed forces of the United States or the National Guard shall be granted leave of absence from his position, without loss of pay, time, annual or sick leave, when ordered to active duty for field training or training authorized in lieu thereof, when the individual is given constructive credit for such training, for a period not to exceed 15 working days in any calendar year. An appointing authority may grant an employee annual leave, leave without pay or both for a period which exceeds 15 working days in any calendar year, in accordance with other provisions of this executive order.

B. An employee is inducted or ordered to active duty to fulfill his reserve obligation or who is ordered to active duty in connection with reserve activities for indefinite periods or for periods in excess of his annual field training is eligible for the leave with pay as provided in this executive order.

SECTION 14: Other Leave.

A. Workers' Compensation Payments - Optional Leave with Pay.

Employees who are absent from work due to disabilities for which they are entitled to workers' compensation have the option to use sick and annual leave, which shall not exceed the amount necessary to receive total payments for leave and workers' compensation equal to their regular salary.

B. Law Enforcement - On Duty Disability.

When employees engaged in law enforcement work are disabled while in the performance of duty of a hazardous nature and become unable to perform their usual duties, because of such disability, their appointing authority may, with prior approval of the commissioner of administration, grant such disabled employees leave of absence with full pay during the period of such disability without charge against accrued sick or annual leave, provided such employees pay to their department all amounts received as workers' compensation benefits.

C. Funeral Leave.

An employee may be given time off without loss of pay, annual leave, or sick leave, when attending the funeral or

burial rites of a parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grandparent, or grandchild, provided such time off shall not exceed two days on any one occasion.

D. Educational Leave.

1. Leave without pay for educational purposes may be granted an employee for a period equivalent to the period of attendance at the educational institution.

2. Educational leave with pay may be granted to employees for a maximum of 30 calendar days in one calendar year if the course of instruction to be taken is pertinent to their work. Employees may be granted such leave for a maximum of 90 calendar days in one calendar year if their approving authority required them to take special training.

3. Employees granted educational leave without pay may be granted a stipend if there are funds available for that purpose.

E. Leave of Absence Without Pay.

1. An appointing authority may extend leave of absence without pay to employees for a period not to exceed one year, provided that such leave shall not prolong the period of their appointment.

2. If an employee fails to report for or refuses to be restored to duty in pay status on the first working day following the expiration of an approved leave of absence without pay, or at an earlier date upon reasonable and proper notice from the appointing authority, then the employee shall be considered as having deserted the position.

3. An appointing authority, on its own initiative or at the request of the employee, may curtail a period of leave of absence without pay extended to an employee, provided such curtailment is for the best interest of the state service and reasonable and proper notice thereof is furnished to the employee.

SECTION 15: Holidays.

A. Holidays shall be observed as provided in LSA-R.S. 1:55 and by any proclamation issued by the governor.

B. Employees shall be eligible for compensation on holidays observed except:

1. when the employee's regular work schedule averages less than 20 hours a week;

2. when the employee is a temporary, intermittent or seasonal employee;

3. when the employee is on leave without pay immediately preceding and following the holiday period.

SECTION 16: Record Keeping.

Daily attendance and leave records shall be maintained for each unclassified employee eligible to accrue annual and sick leave. These records shall conform to the same requirements as established by the Department of Civil Service.

SECTION 17: Compliance.

All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to comply with the provisions of this executive order.

SECTION 18: Effective Date.

The provisions of this executive order shall be effective retroactive to January 13, 1992, shall remain in effect until

amended, modified, or rescinded by the governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of August, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9409#006

EXECUTIVE ORDER EWE 94-33

WHEREAS: the Department of Education has been working diligently to coordinate and link services and programs with the department as well as across agencies; and

WHEREAS: the Department of Education administrators, through two separate bureaus, the Job Training Partnership Act (JTPA) 8 percent and Title III Programs with funds allocated from the Louisiana Department of Labor; and

WHEREAS: the JTPA 8 percent Program is identified as a separate appropriation and JTPA Title III is budgeted with the Office of Vocational Education's appropriation; and

WHEREAS: administrative, fiscal, and programmatic reporting requirements for both programs are similar and could be more cost effective if combined; and

WHEREAS: administrative services of both the JTPA 8 percent and Title III Programs are similar, and could be more cost effective if combined; and

WHEREAS: both the secretary of labor (the funding source) and the state superintendent of education (the recipient of the funds) support the merger of the JTPA 8 percent and Title III Programs within the Department of Education;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the constitution and laws of the state of Louisiana, and the preamble to the Appropriations Act, Section 3, do hereby authorize the programs and functions of the JTPA 8 percent and Title III Bureau, be merged within the Vocational Education Budget Unit within the Department of Education.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 24th day of August, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9409#007

EMERGENCY RULES

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Discipline Procedures under the Exceptional Children's Act

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted as an emergency rule, Section 459 (Discipline Procedures) of Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act.

Emergency adoption is necessary due to the increased violence in the public schools. School systems are suspending and expelling students for dangerous behavior on a routine basis. Currently in Section 459.H when a student with disabilities is removed immediately due to the fact he poses a danger to himself or others, he must be returned to school within three days if all due process procedures have not been completed. The new rule would allow 10 days to complete the procedures before a student with disabilities would have to be returned to school. This extension from 3 to 10 days is a more reasonable length of time to complete all due process procedures afforded to students with disabilities and would not allow a dangerous student to return to school due to unreasonable timelines. Therefore, based on recommendations of legal counsel and the imminent peril to public health, safety and welfare of students and the need to adequate due process timelines to protect rights of students and school personnel, Section 459 of Bulletin 1706 is adopted as an emergency rule, effective August 25, 1994 and printed below:

§459. Discipline Procedures

A. Definitions

1. *In-School Alternative Discipline Program*—a detention program which includes educational services as written on the IEP. Removal of a student from his/her class into this program shall not be considered an exclusion.

2. *Significant Change in Placement*—removal from educational services for more than 10 consecutive days within one school year.

Note: If a series of exclusions that are each of 10 days or fewer in duration creates a pattern that also constitutes a significant change in placement. Among the factors that should be considered in this determination are the length of each removal, the proximity of the removals to one another, and the total amount of time the student is excluded from school.

3. *Student with Suspected Disabilities*—pupil appraisal personnel has received formal written consent from the parent to evaluate.

B. Procedures for Exclusion of Students with Disabilities and Students with Suspected Disabilities

1. For exclusions of one to ten days:

a. The student must be given prior oral or written notice of the charges as well as the basis for such accusation and an opportunity to respond. The school principal or designee should contact the parent, tutor, or legal guardian to establish a course of action to identify and correct the behavior leading to exclusion before any further action is taken to remove the student. All procedural safeguards afforded regular education students regarding suspension must be extended to students with disabilities and their parents. (See Bulletin 741, *The School Administrator Handbook* and R.S. 17:416).

b. Where the student is clearly dangerous to himself or others, the student may be removed from the school immediately. Notice of the charges and other due process procedures may be delayed but must be carried out as soon as practical. In no case can this take longer than 10 school days after the immediate exclusion.

c. The special education administrator or designee shall be notified immediately, within one school day, of the student's removal from school, the number of days of exclusion, and the reason for the removal. All exclusions, regardless of the reason, must be reported.

2. For exclusions of more than 10 consecutive days, or when a pattern of exclusions has occurred, or upon the fourth suspension:

Note: The "stay-put" provision mandates a student with disabilities shall remain in his/her current educational placement pending completion of any review proceedings, unless the parents and LEA otherwise agree.

a. A trained and knowledgeable group of persons must determine whether the student's misconduct or pattern of misconduct is related to the disabling condition. This group of persons must be knowledgeable about the student, the meaning of the evaluation data, and the placement options. The IEP/Placement committee could satisfy this requirement. Note: For the purpose of this section, if the IEP/Placement Committee is used the procedure used to notify parents (whether oral or written or both) is left to the discretion of the LEA, but the LEA must keep a record of its efforts to contact parents.

b. The data considered in making the relatedness decision includes information drawn from a variety of sources, including the IEP and evaluation reports. Other sources may include aptitude and achievement tests, teacher recommendation, physical condition, social or cultural background, and adaptive behavior. The information obtained from all such sources must be documented and carefully considered.

c. The relatedness decision cannot be based on the LEA's normal disciplinary procedures. The person, such as the principal, who recommended the exclusion of the student can not serve on the relatedness decision committee for that student.

d. If the misconduct is found not related to the disability and the exclusion will occur, a re-evaluation (as defined in Bulletin 1508, *The Pupil Appraisal Handbook*) must

be conducted. After the reevaluation is completed the IEP/Placement committee must convene to determine appropriate programming and placement and develop a behavior management plan which addresses the specific behavior(s) which caused the exclusion to occur. Free appropriate public education (FAPE) must be provided and educational services may not cease.

e. If the misconduct is found related to the disability, the exclusion shall not occur. The system must convene an IEP committee to consider modifications to the student's program (e.g. additional related services, counseling, changes in the behavior management plan, increased time in Special Education, change of class schedule, change of teacher.)

f. The special education administrator or designee shall be notified immediately, within one school day, of the recommendation for an exclusion of more than 10 days. All exclusions, regardless of the reason, must be reported.

g. Where the student is clearly dangerous to himself or others, the student may be removed immediately. Notice of the charges and other due process procedures may be delayed but must be carried out as soon as practical. In no case can this take longer than 10 school days after the immediate exclusion. Special education services must be continued.

3. Exclusion from the bus is treated the same as an exclusion from school unless alternative means of transportation are provided.

4. The exclusion clock of one to ten days begins anew following a move down the placement continuum to a more restrictive environment after following the appropriate procedures.

Note: At each IEP meeting there must be a discussion of the social/behavioral needs of the student. This should include the following:

1. addressing any behavioral problem(s) of the student that are related to the disabling condition;

2. developing a structured program of behavior management (including goals and objectives) for dealing with the behavior; and

3. a review and determination of the effectiveness of any prior plan of behavior management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

Carole Wallin
Executive Director

9409#042

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

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

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved Revised Bulletin 1868, BESE Personnel Manual, for advertising. Revisions to

the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the manual. Bulletin 1868 is being readopted as an emergency rule, effective September 27, 1994 in order to continue the policies until finalized as a rule.

Included in Bulletin 1868, under Chapter D: Employee Compensation, Section 145: Vocational-Technical System is the Salary Schedule for Technical Institutes. This Section 145 of Bulletin 1868 supersedes the emergency rule relative to the Salary Schedule for Technical Institutes which appeared in the May, 1993 issue of the *Louisiana Register* on pages 597—604.

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

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

Bulletin 1868, BESE Personnel Manual may be seen in its entirety in the Office of the State Register located on the fifth floor of the Capitol Annex; in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge or in the Office of Vocational Education; or in the office of Special School District Number 1 located in the State Department of Education.

Bulletin 1868 is referenced in the Louisiana Administrative Code, Title 28, and is amended as stated below:

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §922. Personnel Policies

A. Bulletin 1868

1. Revised Bulletin 1868, Personnel Manual of the State Board of Elementary and Secondary Education is adopted by the board. Policies in this bulletin apply to personnel under the jurisdiction of the state board in the Board Special Schools; in the entities comprising Special School District Number 1; and in entities in the vocational-technical system, exclusive of the assistant superintendent for Vocational Education and related state department staff.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:7(10), R.S. 17:81.4, R.S. 17:1941-1956; R.S. 17:1993.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:297 (April 1990), amended LR 16:957 (November 1990), LR 20:

(It should be noted that the clause "exclusive of the central office staff" which appeared after Special School District Number 1 has been eliminated from the bulletin.)

Carole Wallin
Executive Director

9409#041

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1943—Teacher Assessment

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and adopted as an emergency rule an amendment to Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment, as stated below:

Amend Section III: Applicability and Timelines

A. Delete the second paragraph which reads:

"If a teacher or other educator to whom this program applies has been employed for more than 90 consecutive days in the same assignment in Louisiana public schools prior to August 1, 1994, that individual shall not be considered a "new teacher" for purposes of this program."

Amend Section IV: Glossary

External Assessor—amend to read:

"- an active faculty member of a college or university, a central office administrator or retired educator."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3881-3884, R.S. 17:3891-3896 and R.S. 17:3901-3904.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 20:

Bulletin 1943 was adopted by the board as an emergency rule, effective June 23, 1994. The above amendments were necessary in order to be in conformity with Act 1 of the Third Extraordinary Session of the 1994 Louisiana Legislature.

Emergency adoption is necessary in order for the amendments to be effective when assessments begin on new teachers in September, 1994. Full implementation of the Louisiana Teacher Assessment Program begins with the 1994-95 school year. Effective date of emergency rule is August 25, 1994. This emergency rule will remain in effect for 120 days or until finalized as a rule, whichever occurs first.

Carole Wallin
Executive Director

9409#043

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Fee Schedule—Technical Institutes (LAC 28:I.1523)

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule an amendment to the fee schedule for Louisiana high school students attending the technical institutes. This amendment to the Louisiana Administrative Code, Title 28, as stated below is being readopted as an emergency rule in order to continue the policy until finalized

as a rule. Effective date of emergency rule is September 27, 1994. This emergency rule will remain in effect for 120 days or until finalized as a rule, whichever occurs first.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 15. Vocational and Vocational-Technical Education

§1523. Students

* * *

E. Fees for Louisiana Residents. Effective July 1, 1986, persons enrolled in full-time or part-time classes at vocational-technical institutes shall be charged fees in compliance with the following provisions:

* * *

2. Louisiana high school students shall not be charged any registration or tuition fees while attending for high school credit.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A), (10), (11).

Carole Wallin
Executive Director

9409#044

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Internship Program for Nonpublic School Administrators

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and adopted as an emergency rule the following internship program for nonpublic school administrators:

Internship Program for Nonpublic School Administrators

1. Nonpublic school administrators who are eligible for a provisional elementary/secondary school principalship endorsement (Bulletin 746) shall be allowed to participate in a two-year administrative internship program under the auspices of a regionally accredited college or university. This college or university program shall be the equivalent to the State Administrative Leadership Academy and Project LEAD.

2. Upon successful completion of the college or university administrative internship program, nonpublic school administrators will be eligible for elementary/secondary principal endorsement that will be added to the standard Type A certificate.

Emergency adoption is necessary in order for the program to be in place for the fall semester. Effective date of emergency rule is August 25, 1994. This emergency rule will remain in effect for 120 days or until finalized as a rule, whichever occurs first.

Carole Wallin
Executive Director

9409#045

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Honors Scholarship (LAC 28:V)

In accordance with emergency provision of R.S. 49:953(B) of the Administrative Procedure Act, the Student Financial Assistance Commission, Office of Student Financial Assistance has adopted an emergency rule regulating the Honors Scholarship Program effective August 9, 1994 for a period of 120 days.

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to amend the Scholarship and Grant Policy and Procedure Manual:

VII B. Insert "and by Act 86 of the Third Extraordinary Legislative Session, 1994." after "1993 Regular Legislative Session."

VII C.1.a. Insert "or eligible non-Louisiana high school," after "(BESE) approved nonpublic high school," and before "as identified and certified" and insert "and by the governing board of each eligible non-Louisiana high school" after "nonpublic approved high school" and before "; or".

VII D. Insert ", LASFAC on behalf of Eligible Non-Louisiana High Schools" after "Special School Governing Boards" and before "and Louisiana Department of Education Participation/Responsibilities."

VII D.1 Insert "LASFAC on behalf of Eligible Non-Louisiana High Schools" after "BESE Approved Nonpublic High Schools" and before "and Louisiana Department of Education Representatives."

VII D.1.b. Insert "Louisiana" after "In computing the top five percent of each" and before "high school's graduating class, apply the following formula:"

VII D.1.c. - f. Rename current text c. through f. to be d. through g. and insert new text for c. as follows:

In computing the top five percent of each eligible non-Louisiana high school's graduating class and calculating the number of Louisiana residents to be named as honors scholars, apply the following formulas:

i. The total number of students, both Louisiana residents and non-Louisiana residents, receiving a high school diploma from the institution during the academic year preceding the award year, multiplied by the figure .05, and, if not a whole number, rounded up to the next whole number.

Example: Total graduates = $69 \times .05 = 3.45$ round up to 4.0

ii. The number of academic year graduates who are Louisiana residents funded through the Louisiana Minimum Foundation Program (MFP), multiplied by the figure .05, and, if not a whole number, rounded up to the next whole number. (Louisiana resident graduates not funded through MFP shall not be counted in this calculation.)

Example: MFP graduates = $23 \times .05 = 1.4$ round up to 2.0

iii. To be certified as an honors scholar the student must rank both in the top 5 percent of the non-Louisiana high

school's total academic year graduating class, as well as in the top 5 percent of MFP funded Louisiana residents in the graduating class.

In the examples provided above, the maximum number of Louisiana residents to be certified as honors scholars is two, and the minimum number is zero. If only one Louisiana resident ranked in the top 5 percent (4 of 69) of the total graduates, then only one student could be certified as an honors scholar. Conversely, if three Louisiana residents ranked in the top 5 percent (4 of 69) only the top two of these three could be certified as honors scholars.

VII D.1.e To current text to be renamed f., insert "governing boards of eligible non-Louisiana high schools," after "BESE approved high schools", and before "and Louisiana Department of Education ..."

VII D.1.f To current text to be renamed g., insert ", governing board" after "In the certifying authority (school board, principal, headmaster" and before "or State Department of Education representative).

VII G.2.a. Replace current text with "Forward blank certification forms and instructions to Louisiana city and parish school boards, approved nonpublic high schools, eligible non-Louisiana high school governing boards, and the Louisiana Department of Education.

VII H.4. Remove period and add at the end of the paragraph; "or certified by award of a high school diploma from an eligible non-Louisiana high school."

VII H.5., 6 and 7. Rename current text 5. and 6., to be 6. and 7. and add new text 5. as follows:

Eligible Non-Louisiana High School:

For the purposes of this Chapter, an eligible non-Louisiana high school is defined as a high school which meets all of the following criteria:

- a. is in a state adjoining the state of Louisiana.
- b. has provided LASFAC with acceptable evidence of an agreement dated prior to June 5, 1994, between the parish school system and the high school's local governing authority.
- c. has students who graduate during the academic year preceding the award year, who were residents domiciled in Louisiana and were funded through the Louisiana Minimum Foundation Program.
- d. on whose behalf, LASFAC has established criteria for ranking the school's academic year graduates in accordance with VII D. of this Chapter.

Jack L. Guinn
Executive Director

9409#051

DECLARATION OF EMERGENCY

**Department of Environmental Quality
Office of the Secretary**

**Clean Fuel Fleet Program and Fees
(LAC 33:III.223 and 1951-1973) (AQ80E)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the assistant secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because of the requirements of the Clean Air Act Amendments (CAAA) of 1990 and the impact of the amendments upon the six-parish, Baton Rouge ozone nonattainment area. It is necessary for the DEQ to adopt this emergency rule, LAC 33:III.Chapter 19, Subchapter B, "Clean-fuel Fleet Program" and Chapter 2, pertaining to associated fees, to comply with the federal mandate for this program and to support the State Implementation Plan (SIP).

The immediate impact is to comply with the requirements of the CAAA of 1990 and to support the SIP revision submittal to the Environmental Protection Agency.

This emergency rule is effective on September 15, 1994, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

[See Prior Text in Fee Schedule Listing]

Additional Permit Fees and ADVF Fees		
Fee Number	Fee Description	Amount
	*** [See Prior Text]	
2700 *Note 17*	Fleet Size: 10-25 vehicles 26-50 vehicles 51-100 vehicles 101 and higher vehicles	300 500 750 1,000

Explanatory Notes for Fee Schedule

[See Prior Text Notes 1 through 17]

Note 17 The fleet size is based on the number of covered vehicles in the covered fleet.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205

(December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1565 (December 1993), LR 20:

Chapter 19. Mobile Sources

Subchapter B. Clean-fuel Fleet Program

§1951. Purpose

The purpose of this rule is to reduce exhaust emissions from motor vehicles through a program that requires covered fleet operators to include Clean-fuel Vehicles (CFVs), on a percentage basis, in acquisitions of fleet vehicles. The Clean-fuel Fleet Program is mandated by the Clean Air Act Amendments of 1990, for vehicle fleets that operate in the Baton Rouge ozone nonattainment area which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1953. General Provisions

A. Applicability. Any person who operates a fleet of 10 or more covered vehicles that are centrally fueled or capable of being centrally fueled in the Baton Rouge ozone nonattainment area as defined in LAC 33:III.1951 shall comply with the rules set forth in this Subchapter. This includes persons that reside outside the covered area and operate such fleets in the covered area. Three vehicle classes are covered by the program:

1. Light-duty Vehicles and Trucks (LDVs and LDTs) with a gross vehicle weight rating of (GVWR) less than or equal to 6,000 pounds;
2. LDTs with a GVWR greater than 6,000 pounds and less than or equal to 8,500 pounds; and
3. Heavy-duty Vehicles (HDVs) with a GVWR greater than 8,500 pounds and less than 26,000 pounds.

B. Purchase Requirements

1. For LDVs and LDTs, 30 percent of new covered vehicle purchases/acquisitions, in Model Year (MY) 1998, 50 percent in MY 1999, and 70 percent in MY 2000 and thereafter must be CFVs.

2. For HDVs, 50 percent of new covered vehicle purchases/acquisitions in MY 1998 and 50 percent every MY thereafter must be CFVs.

3. Purchasing requirements specified in Subsection B.1 and 2 of this Section may be met through EPA certified conversions of conventionally fueled vehicles to CFVs or by use of purchase credits.

C. Fleet Registration

1. Covered fleets shall register with the administrative authority not later than September 1, 1997.

2. Those fleets which become covered after September 1, 1997 because of an increase in fleet size and/or central fueling capabilities shall register all vehicles in their fleet with the administrative authority within 90 days of attaining covered fleet status.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1955. Definitions

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows:

Capable of Being Centrally Fueled—a fleet, or that part of a fleet, consisting of vehicles that can be refueled 100 percent of the time based on a location that is owned, operated, or controlled by the fleet operator, or is under contract with the fleet operator. A covered fleet operator who does not have a refueling location associated with his/her business or a contract for refueling will be considered capable of being centrally fueled based on the availability of a fueling location within a 1.4 mile radius of the fleet's operational location which that fleet or part of that fleet can be refueled 100 percent of the time.

Centrally Fueled—a fleet, or that part of a fleet, consisting of vehicles that are fueled 100 percent of the time at a location that is owned, operated, or controlled by the covered fleet operator or is under contract with the covered fleet operator. This includes any vehicle that is garaged at a personal residence and that is centrally fueled 100 percent of the time.

Clean Alternative Fuel—any fuel, including methanol, ethanol or other alcohols (including any mixture thereof containing 85 percent or more by volume of such alcohol with gasoline or other fuel), reformulated gasoline, diesel, natural gas, liquefied petroleum gas, and hydrogen, or power source (including electricity) used in a clean-fuel vehicle that complies with the standards and requirements applicable to such vehicle when using such fuel or power source.

Clean-fuel Vehicles (CFVs)—a vehicle which has been certified to meet, for any model year, a set of emission standards that classifies it as a low-emission vehicle (LEV), ultra-low-emission vehicle (ULEV), or zero-emission vehicle (ZEV).

Contract Fueling—an agreement under which fleet vehicles are required to be refueled at a service station or other facility with which the fleet operator has entered into a contract for such refueling purposes. Commercial fleet credit cards are considered to be a refueling agreement, since they are intended as a special fuel arrangement for fleet purchases alone.

Converted Vehicle—a vehicle that is retrofitted to use one of the alternative clean fuels and meets the emission standards set forth for that class of CFVs.

Converter—any person who manufactures or installs a conversion configuration on a vehicle in order to convert it to a clean-fuel vehicle which meets the emission standards for that class of CFFVs. *Note:* Manufacturers of conversion kits, as well as installers, are responsible for demonstrating that vehicles converted to clean-fuel vehicles have a configuration that complies with clean-fuel vehicle emission standards.

Covered Area—the Baton Rouge ozone nonattainment area which is subject to the CAAA Clean-fuel Fleet Program provisions. The parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge are included.

Covered Fleet—ten or more motor vehicles in vehicle classes for which this rule is applicable and which are: operated by a single person; operated in a covered area, even if the fleet is

garaged outside the covered area; and which are centrally fueled or capable of being centrally fueled.

Covered Fleet Operator—a person who operates a covered fleet. For the purposes of this rule, all motor vehicles owned or operated, leased, or otherwise controlled by such person, by any person who supervises such person, or by any person under common supervision with such person shall be treated as owned by such person.

Covered Fleet Vehicle—a motor vehicle that is in a vehicle class for which standards are applicable under this rule and is part of a covered fleet that is centrally fueled or capable of being centrally fueled.

Dealer Demonstration Vehicle—a vehicle that is operated solely for the purpose of promoting motor vehicle sales or permitting potential purchasers to drive the vehicle for pre-purchase or pre-lease evaluation. ("Dealer" refers to any person who is engaged in the sale or distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.)

Dual-fuel Vehicle—any motor vehicle or engine that is designed to operate on two fuel sources. Each fuel source is stored in a separate fuel storage tank.

Emergency Vehicle—any vehicle that is legally authorized by a governmental authority to exceed the speed limit to transport people and equipment to and from situations in which speed is required to save lives or property, such as a rescue vehicle, fire truck, or ambulance.

Flexible-fuel Vehicle—any motor vehicle which is designed to operate on multiple fuel sources. Each fuel source is stored in the same fuel storage tank.

Fuel Provider—a facility that provides refueling services to the general public.

Gross Vehicle Weight Rating (GVWR)—the weight specified by the vehicle manufacturer as the maximum allowable loaded weight (vehicle empty weight plus the weight of the driver, passengers, and payload) of a single vehicle.

Heavy-duty Vehicle (HDV)—a motor vehicle with a GVWR greater than 8,500 pounds, and identified as being in one of three subclasses:

1. **Light HDV (LHDV)**—a motor vehicle with a GVWR of 8,500 pounds through 19,500 pounds.

2. **Medium HDV (MHDV)**—a motor vehicle with a GVWR of 19,501 pounds through 26,000 pounds.

3. **Heavy HDV (HHDV)**—a motor vehicle with a GVWR of 26,001 pounds or greater.

Inherently Low-emission Vehicle (ILEV)—any LDV or LDT conforming to the applicable ILEV emission standards, or any HDV with an engine conforming to the applicable ILEV standards. No dual-fuel or flexible-fuel vehicles shall be considered ILEVs unless they are certified to the applicable ILEV standard(s) on all fuel types for which they are designed to operate. ILEV emission standards may be found in 40 CFR 88.311-93.

Law Enforcement Vehicle—any vehicle which is primarily operated by a civilian or military police officer or sheriff, or by personnel of federal, state, or municipal law enforcement agencies and which is used for the purpose of law enforcement activities including, but not limited to, chase, apprehension,

surveillance, or patrol of people engaged in or potentially engaged in unlawful activities.

Light-duty Vehicle/Truck (LDV/LDT)—a motor vehicle with a GVWR of 8,500 pounds or less.

Location—any building, structure, facility, or installation, which is owned or operated by or under the control of a person, is located on one or more contiguous properties, and contains or could contain a fueling pump or pumps for the use of the vehicles owned or controlled by that person.

Low-emission Vehicle (LEV)—a vehicle that meets the LEV certified emission standards. The LEV emission standards may be found in 40 CFR 88.104-94 and 40 CFR 88.105-94.

Model Year (MY)—the time frame (September 1 through August 31) during which annual fleet vehicle purchases, acquisitions, and conversions are computed. Any new vehicles purchased, acquired, or converted between September 1 and August 31 shall be counted toward the purchase requirement of the same year and shall be considered to be of the same model year as the January that falls between them.

Motor Vehicle—any self-propelled vehicle designed for transporting persons or property on a street or highway.

Noncovered Fleet—any fleet that is exempted from this rule in accordance with LAC 33:III.1957.

Nonroad Vehicle—a vehicle or item of machinery that uses internal combustion engine but is not regulated as a motor vehicle or airplane under the Clean Air Act (e.g. farm and construction equipment).

Operate In—a covered fleet, whether registered inside or outside the covered area, that conducts business within the boundaries of the covered area, such as, but not limited to, the delivery of a product or a service, sales personnel calling on clients, making repair service calls, etc.

Partially Covered Fleet—any fleet that contains 10 or more covered vehicles, but also contains exempt vehicles.

Ultra-low-emission Vehicle (ULEV)—a vehicle that meets the ULEV certified emission standards. The ULEV emission standards may be found in 40 CFR 88.104-94 and 40 CFR 88.105-94.

Zero-emission Vehicle (ZEV)—a vehicle that meets the more stringent ZEV certified emission standards. The ZEV emission standards can be found in 40 CFR 88.104-94 and 40 CFR 88.105-94.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1957. Exemptions

The following fleet vehicles are exempt from the requirements of this Subchapter:

1. any vehicle with a GVWR greater than or equal to 26,000 lbs;
2. emergency or law enforcement vehicles;
3. nonroad vehicles (farm and construction vehicles);
4. fleets in the covered area with less than 10 vehicles;
5. vehicles in a covered fleet not capable of being centrally fueled;

6. vehicles parked at a private residence that are not already centrally fueled;

7. vehicles leased or rented to the general public;

8. vehicles held for sale by motor vehicle dealers (including dealer demonstration vehicles); and

9. vehicles used for motor vehicles manufacturer product demonstrations and tests.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1959. Emissions Standards

Clean-fuel vehicles must meet the applicable vehicle emission standards for their respective vehicle classes and categories. The emission standards tables are found in 40 CFR 88.104.94., 40 CFR 88.105.94., and 40 CFR 88.311.93.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1961. Credits Program

Operators of covered fleets that are registered or required to be registered in the covered area, and participating noncovered fleets, upon registering with the department, are eligible to participate in the credits program which allows purchase credits to be earned, banked, traded, or sold within the Baton Rouge nonattainment area in order to satisfy the Clean-fuel Fleet Program (CFFP) purchase requirements. Noncovered fleets may participate in the credits program upon registering with the department.

A. Requirements

1. Fleet must be registered with the administrative authority in accordance with rule and procedures established by the Clean-fuel Fleet Program.

2. Any fleet vehicle, for which credit is being requested, must be a clean fuel vehicle (CFV).

3. Any dual-fuel/flexible-fuel vehicle which a fleet owner purchases, acquires, or converts to comply with CFFP purchase requirements or to generate credits must be operated, while in the covered area, on the fuel(s) on which it was certified as a CFV.

B. Credits Generation. Owners of eligible fleets may generate credits by:

1. purchasing, acquiring, CFVs, and/or converting vehicles to CFVs prior to model year 1998;

2. purchasing, acquiring CFVs, and/or converting more vehicles to CFVs than the CFFP requires in any year;

3. purchasing, acquiring CFVs, and/or converting vehicles to CFVs, which meet more stringent emission standards (ULEV,ZEV) than the minimum requirement (LEV); or

4. purchasing, acquiring CFVs in exempted vehicle categories, and/or converting exempted vehicles to CFVs.

C. Credits Use. Owners or eligible fleets, in lieu of purchasing/acquiring CFVs, may use banked, traded, or purchased credits as a means of meeting their CFFP purchase requirements.

D. Credit Transactions

1. Credit Banking

a. Credits which are not needed to meet a fleet's CFFP purchase requirements may be banked.

b. Banked credits made be held for use, trading, and/or selling at a later time with no depreciation of credits.

c. Banked credits may be used to meet compliance with the purchase requirements by redemption to the administrative authority at a later date.

d. Eligible fleet operators who voluntarily purchase CFVs after August 31, 1995, shall be eligible to earn and bank credits provided that all other requirements applicable to such purchases and vehicle use are met.

e. Credits for the light and heavy duty vehicle classes (including heavy-duty subclasses) are required to be banked, identified, and tracked separately.

2. Trading, Selling, and Purchasing of Credits

a. The trading, purchasing, and selling of credits is market driven, with no monetary value set by the administrative authority*.

b. Credits may be traded, purchased, or sold only among covered and participating non-covered fleets in the Baton Rouge nonattainment area.

c. Traded or purchased credits may be used to demonstrate compliance in the year of the trade/purchase or any subsequent year.

d. Credit transactions are prohibited between the light-duty and heavy-duty vehicle weight classes.

e. Credit trading is allowed between all LDV and LDT subclasses.

f. Credit trading among the HDV subclasses is allowed only in a downward direction and without proration. That is, credits generated by the purchase of heavy HDVs can be used to demonstrate compliance with medium HDV or light HDV purchase requirements on a one-for-one basis. Trading in an upward direction, i.e., using credits generated by the purchase of light HDVs to satisfy medium HDV or heavy HDV requirements, is not permitted.

g. A covered fleet operator desiring to demonstrate full or partial compliance with covered fleet purchase requirements by the redemption of credits shall surrender sufficient credits as established by the CFFP. Credits tables can be found in Subsection E of this Section.

E. Calculation of Credits. Credits are appropriately weighted to reflect the level of emission reduction achieved by the respective class when compared to conventional vehicle standards for equivalent weight classes. Credit calculations and tracking will follow round-off procedures to two decimal places (hundredth's place). The following tables demonstrate "credit generation" and "credits in lieu of" values for LDVs and HDVs.

Table 3.1

Purchasing More Vehicles than Required to Meet the Mandate

NMOG + NO _x	LDV	LDT	LDT	LDT	LDT	LDT
	≤6000 lbs GVWR ≤3750 lbs TW	≤6000 lbs GVWR ≤3750 lbs TW	≤6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	>6000 lbs GVWR ≤3750 lbs TW	>6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	>6000 lbs GVWR >5750 lbs TW
LEV	1.00	1.00	1.39	.33	.43	.52
ULEV	1.09	1.09	1.52	1.00	1.39	2.06
ZEV	1.73	1.73	2.72	1.73	2.72	3.97

Table 3.2

Purchasing a ULEV or ZEV to Meet the Mandate

NMOG + NO _x	LDV	LDT	LDT	LDT	LDT	LDT
	≤6000 lbs GVWR ≤3750 lbs TW	≤6000 lbs GVWR ≤3750 lbs TW	≤6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	>6000 lbs GVWR ≤3750 lbs TW	>6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	>6000 lbs GVWR >5750 lbs TW
LEV	0.00	0.00	0.00	0.00	0.00	0.00
ULEV	.09	.09	.13	.67	.96	1.54
ZEV	.73	.73	1.34	1.40	2.29	3.45

Table 3.3

Credit Needed in Lieu of Purchasing a LEV to Meet the Mandate

NMOG + NO _x	LDV	LDT	LDT	LDT	LDT	LDT
	≤6000 lbs GVWR ≤3750 lbs TW	≤6000 lbs GVWR ≤3750 lbs TW	≤6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	>6000 lbs GVWR ≤3750 lbs TW	>6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	>6000 lbs GVWR >5750 lbs TW
LEV	1.00	1.00	1.39	.33	.43	.52

Table 3.4

Purchasing More Vehicles than Required to Meet the Mandate

	Light HDV	Medium HDV	Single Unit Heavy HDV
LEV	1.00	1.00	1.00
ULEV	1.87	1.87	1.87
ZEV	3.53	3.53	3.53

Table 3.5
Purchasing a ULEV or a
ZEV to Meet the Mandate

	Light HDV	Medium HDV
LEV	.00	.00
ULEV	.87	.87
ZEV	2.53	2.53

Table 3.6
Credit Needed in Lieu of
Purchasing a LEV to
Meet the Mandate

	Light HDV	Medium HDV
LEV	1.00	1.00

§1963. Emission Reduction Credits Program - Reserved
§1965. Recordkeeping Requirements

A. Accurate records must be maintained to verify compliance with the clean-fuel fleet program. All records shall be maintained for the current year plus the previous two years for the purposes of reporting and compliance auditing.

B. An annual report for LDVs and HDVs shall be forwarded to the administrative authority by October 1 to cover the previous model year's activities. Transactions will be recorded in the balance sheet by item number. An item sheet will accompany the balance sheet for each item entered.

C. Each balance sheet shall contain the following:

1. total number of new vehicles purchased;
2. CFVs required;
3. each transaction by item number and date;
4. acquired credits and/or sold credits;
5. beginning and ending credit balances;
6. company name, address, primary contact person, telephone number, date, and fleet operator signature.

D. Each item sheet shall contain the following:

1. transaction item number and date;
2. company name, address, primary contact person, telephone number;
3. company name, address, primary contact person, telephone number, and item number of whom purchased/sold the credits;
4. Vehicle Identification Number (VIN) of the purchased/converted vehicle(s);
5. vehicle type of the purchased/converted vehicle(s);
6. fuel type of the purchased/converted vehicle(s);
7. certification number of the purchased/converted vehicle(s);
8. license plate number of the purchased/converted vehicle(s);
9. LEV equivalents; and
10. any other information for clarification or verification.

E. The following records shall be maintained for compliance audit purposes:

1. the annual report;
2. total number of vehicles (covered and exempt);
3. the VIN, license plate number, type (LDV/HDV), and fuel type of each vehicle;
4. any other information that may be deemed necessary by the administrative authority.

F. All records shall be maintained at a location within the covered area for those who reside inside the covered area or for those operators who reside outside the covered area at a site agreed to by the fleet operator and the administrative authority. The records shall be available for inspection by department personnel during reasonable business hours (8 a.m. to 5 p.m., Monday-Friday).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1967. Conversions to Clean-fuel Fleet Vehicles - Reserved

§1969. Fuel Provider Requirements

Fuel providers are required by the Clean Air Act Section 246(e) "to make clean alternative fuels available to covered fleet operators at locations at which covered fleet vehicles are centrally fueled."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1971. Enforcement

A. No person shall violate the provisions of this Subchapter.

B. No person shall knowingly:

1. make any false material statement, representation, or certification in, or omit material information from or knowingly alter, conceal, or fail to file or maintain any document required pursuant to this Subchapter;
2. fail to report data as required under this Subchapter;
3. counterfeit or commerce in counterfeit purchase credit documents;
4. fail to meet purchase requirements;
5. fail to purchase the appropriate number of vehicles certified to clean-fuel vehicle emission standards for the present model year; or
6. use a fuel in a covered area other than that on which the vehicle was certified as a clean-fuel vehicle.

C. Failure to comply with the provisions of this Subchapter shall constitute a violation of the act and shall be subject to any enforcement action including penalties pursuant to R.S. 30:2025.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1973. Fees

Fees are defined in LAC 33:III.223.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

James B. Thompson, III
Assistant Secretary

9409#030

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary

Storage of Volatile Organic Compounds
(LAC 33:III.2103) (AQ92E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because of the requirements of the Clean Air Act Amendments (CAAA) of 1990 and the impact of the amendments upon the six-parish, ozone-nonattainment area around Baton Rouge. It is necessary for the DEQ to adopt this emergency edit to LAC 33:III.2103, an existing rule, to show compliance with the 15 percent Volatile Organic Compound (VOC) Reduction Reasonable Further Progress Plan in accordance with the 1990 CAAA.

The immediate impact of this edit to the existing rule is to support the Reasonable Further Progress Plan (RFP) which is to be submitted to the Environmental Protection Agency (EPA).

This emergency rule is effective on September 15, 1994, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds Subchapter A. General

§2103. Storage of Volatile Organic Compounds

Once a storage tank is covered by this rule, it shall remain so covered until the storage tank is permanently removed from service.

A. No person shall place, store or hold in any stationary tank, reservoir or other container of more than 250 gallons (950 liters) and up to 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound, having a true vapor pressure of 1.5 psia or greater at storage conditions, unless such tank, reservoir or other container is designed and equipped with a submerged fill pipe or a vapor loss control system or is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere.

B. No person shall place, store or hold in any stationary tank, reservoir, or other container of more than 40,000 gallons (151,400 liters) nominal capacity any volatile organic

compound having a true vapor pressure of 1.5 psia or greater at storage conditions unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with a submerged fill pipe and one or more of the vapor loss control devices described herein.

C. Internal Floating Roof Acceptable if Vapor Pressure Less than 11.0 psia. An internal floating roof consists of a pontoon type roof, double deck type roof or internal floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. This control equipment shall not be permitted if the organic compounds have a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions.

D. Conditions under which an External Floating Roof is Acceptable. An external floating roof consists of a pontoon type roof, double deck type roof or external floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall and a continuous secondary seal (a rim mounted secondary) extending from the floating roof to the tank wall.

1. A secondary seal is not required if:

a. the tank is a welded tank storing a VOC with a vapor pressure at storage conditions less than 4.0 psia and is also equipped with liquid mounted primary seals, metallic type shoe seals, or equivalent.

b. the storage vessels are external floating roof tanks having nominal storage capacities of 420,000 gallons (1,589,900 liters) or less used to store produced crude oil or condensate prior to lease custody transfer.

c. a metallic-type shoe seal is used in a welded tank which also has a secondary seal from the top of the shoe seal to the tank wall (e.g., a shoe-mounted secondary).

d. an alternate seal or seals can be used in lieu of the primary and secondary seals required herein provided the resulting emission is not greater than that which would have resulted if the primary and secondary seals were installed. The equivalency demonstration will be made to the satisfaction of the administrative authority*.

2. The seal closure devices required in LAC 33:III.2103.D shall:

a. have no visible holes, tears, or other openings in the seal(s) or seal(s) fabric;

b. be intact and uniformly in place around the circumference of the floating roof and the tank wall;

c. not have gap areas, of gaps exceeding 1/8 inch (0.32 cm) in width between the secondary seal and the tank wall, in excess of 1.0 in² per foot of tank diameter (6.5 cm² per 0.3m);

d. not have gap areas, of gaps exceeding 1/8 inch (0.32 cm) in width between the primary seal and the tank wall, in excess of 10.0 in² per foot of tank diameter (65 cm² per 0.3m);

e. be visually inspected at least semiannually. The secondary seal gap measurements shall be made annually at

any tank level provided the roof is off its legs. The primary seal gap measurements shall be made every five years at any tank level provided the roof is off its legs. Conditions not in compliance with LAC 33:III.2103.D.2 shall be recorded along with date(s) of noncompliance and the administrative authority shall be notified within seven days. Repairs necessary to be in compliance must be initiated within seven working days of recognition of noncompliance by ordering appropriate parts. Repairs shall be completed within three months of the ordering of the repair parts. However, if it can be demonstrated that additional time for repair is needed, the administrative authority may extend this deadline.

3. Requirements for Covering Openings. All openings in the external floating roof, except for automatic bleeder vents, run space vent, and leg sleeves, are to provide a projection below the liquid surface. The openings must be equipped with cover, seal, or lid which must be in a closed position at all times except when the device is in actual use. Automatic bleeder vents must be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents must be set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting. Any emergency roof drain must be equipped with a slotted membrane fabric cover or equivalent cover that covers at least 90 percent of the opening.

4. Requirements for Guide Poles, Sample Wells, and Stilling Well Systems. Emissions from guide pole, sample wells, and stilling well systems must be controlled to an efficiency of 90 percent or greater for external floating roof storage tanks with a capacity greater than 40,000 gallons (approx. 151 m³) and storing a liquid having a total vapor pressure of 1.5 psia or greater. The description of the method of control and supporting calculations based upon the Addendum to American Petroleum Institute Publication Number 2517 (dated May, 1994) shall be submitted to the administrative authority for approval prior to installation. Installation of guide pole controls shall be required by November 15, 1996. Requests for extension of the November 15, 1996, compliance date will be considered on a case-by-case basis for situations which require the tank to be removed from service to install the controls. Guide pole restrictions shall only apply in ozone nonattainment areas classified marginal or higher. Controls systems for guide poles shall be inspected semiannually for rips, tears, visible gaps in the pole or float wiper, and/or missing sliding cover gaskets. Detection of any rips, tears, visible gaps in the pole or float wiper, and/or missing sliding cover gasket shall be considered as noncompliance with this Section. Repairs necessary to be in compliance must be initiated within seven working days of recognition of noncompliance by ordering appropriate parts. Repairs shall be completed within three months of the ordering of the repair parts. However, if it can be demonstrated that additional time for repair is needed, the administrative authority may extend this deadline.

E. Vapor Loss Control System Acceptable when Requirements are Met. A vapor loss control system consists of a gathering system capable of collecting the organic compound vapors and gases and a vapor disposal system capable of processing such organic vapors and gases so as to

limit their emission to the atmosphere to the same extent as the provisions of LAC 33:III.2103.C and D. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

F. No person shall place, store or hold in any stationary tank, reservoir or other container of more than 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound having a true vapor pressure of 11 psia or greater at storage conditions unless such tank, reservoir or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with a submerged fill pipe and vapor loss control system in accordance with LAC 33:III.2103.E.

G. Exemptions. The provisions of this Section (e.g., LAC 33:III.2103) do not apply to:

1. existing and new storage tanks, located in any parish other than those classified as marginal and above ozone nonattainment parishes, used for crude or condensate and having a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards;

2. in the attainment parishes, tanks 420,000 gallons (1,589,900 liters) or greater used to store produced crude oil or condensate prior to lease custody transfer are unless such tanks are subject to New Source Performance Standards;

3. for the marginal and above nonattainment parishes, existing and new storage tanks that are used for crude or condensate prior to lease custody transfer and that have a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards; and

4. JP-4 fuels stored in horizontal underground tanks.

H. Compliance Tests

1. Floating Roofs. The seal gap area shall be determined by measuring the length and width of the gaps around the entire circumference of the seal. A 1/8 inch (0.32 cm) uniform diameter probe shall be used for measuring gaps. Only gaps greater than or equal to 1/8 inch (.032 cm) shall be used in computing the gap area. The area of the gaps shall be accumulated to determine compliance with LAC 33:III.2103.D.2.c and d. Compliance with the other provisions specified in LAC 33:III.2103.D.2.a and b and D.4 may be determined by visual inspection.

2. Add-On Control Devices. The following test methods shall be used, where appropriate to measure control device compliance:

a. Test Methods 1 through 4 (LAC 33:III.6001, 6003, 6009 and 6013, respectively) for determining flow rates, as necessary;

b. Test Method 18 (LAC 33:III.6071) for measuring gaseous organic compound emissions by gas chromatographic analysis;

c. Test Method 21 (LAC 33:III.6077) for determination of volatile organic compound leaks;

d. Test Method 25 (LAC 33:III.6085) for determining total gaseous nonmethane organic emissions as carbon;

e. Additional performance test procedures, or

equivalent test methods, approved by the administrative authority*.

3. Vapor Pressure. True vapor pressure shall be determined by ASTM Test Method D323-82 for the measurement of Reid vapor pressure, adjusted for actual storage temperature in accordance with API Publication 2517, Third Edition, 1989.

I. Monitoring/Recordkeeping/Reporting. The owner/operator of any storage facility shall maintain records to verify compliance with or exemption from LAC 33:III.2103. The records shall be maintained for at least two years and will include, but not be limited to, the following:

1. the results of inspections required by LAC 33:III.2103.D.2.e and D.4 shall be recorded.

2. for vapor loss control systems (LAC 33:III.2103.E) the following information shall be recorded:

a. daily measurements of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

b. daily measurements of the inlet and outlet gas temperature of a chiller, or catalytic incinerator;

c. results of monitoring outlet VOC concentration of carbon adsorption bed to detect breakthrough.

3. the date and reason for any maintenance and repair of the applicable control devices and the estimated quantity and duration of volatile organic compound emissions during such activities.

4. the results of any testing conducted in accordance with the provisions specified in LAC 33:III.2103.H.

5. records of the type(s) of VOC stored and the average monthly true vapor pressure of the stored liquid for any storage vessel with an external floating roof that is exempt from the requirements for a secondary seal and is used to store VOCs with a true vapor pressure greater than 1.0 psia.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended, LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:

James B. Thompson, III
Assistant Secretary

9409#031

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of Solid and Hazardous Waste
Solid Waste Division

Waste Tires (LAC 33:VII.Chapter 105) (SW11E)

In accordance with the emergency provisions of the Administrative Procedure Act., R.S. 49:953(B), and under the authority of R.S. 30:2011, the secretary of the Department of

Environmental Quality declares that an emergency action is necessary because of the ever-increasing number of tire piles that are currently being generated. It is necessary for the DEQ to adopt this emergency rule so that funds may be made available from the Waste Tire Management Fund to facilitate the cleanup of these sites. In accordance with changes made to R.S. 30:2418, the DEQ is required to establish a priority system for cleanup of these waste tire sites. These sites create environmental and health-related problems, and pose a significant threat to the safety of the community, should a fire occur. The department has proposed a rule, SW11, which includes similar provisions to those contained in this emergency rule. The intent of this emergency rule is to make available \$2,500,000 in funds to expedite the cleanup of these sites.

This emergency rule is effective on August 12, 1994 and shall remain in effect for the maximum of 120 days or until a final rule is promulgated, whichever occurs first.

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:

Agreement—a contract, purchase order, or other form of arrangement between recipient persons and the administrative authority that outlines specific goals or responsibilities.

* * *

[See Prior Text]

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 18:37 (January 1992), amended LR 20:

§10513. Standard Permit Application Form

* * *

[See Prior Text in A - B.5]

6. a bond, bank letter of credit, or money security made payable upon default to the department into the Waste Tire Management Fund. The bond amount will be an amount equal to \$1 per whole tire and/or \$1 per cubic yard of processed tire material on the site at the license renewal date. To ensure sufficient assets to cover facility closure, the minimum amount of the bond, bank letter of credit or money security shall be \$5,000.

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 18:39 (January 1992), amended LR 20:

§10515. Waste Tire Fee System

* * *

[See Prior Text in A - C.1.a]

b. the remaining \$1 will be forwarded to the department by the tire dealer and will be deposited in the Waste Tire Management Fund. The money shall be designated for the administration of the waste tire recycling regulations and the cleanup of promiscuous tire piles.

* * *

[See Prior Text in C.2]

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 18:39 (January 1992), amended LR 20:

§10536. Cleanup of Promiscuous and/or Unauthorized Tire Piles

A. Upon promulgation of these regulations, the administrative authority may issue agreements for cleanup of promiscuous and/or unauthorized tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for tire pile cleanup. The agreement will designate specific eligible sites, and the department will monitor the cleanup activities which shall be made in accordance with the standards and responsibilities outlined in the Solid Waste Regulations, LAC 33:VII. The agreement shall stipulate that a maximum of 80 percent of the total allowable costs shall be paid from the Waste Tire Management Fund. No more than \$1,000,000 shall be awarded to any one site. These monies shall not be applied to indirect costs and other unallowable costs, which include but are not limited to, administrative costs, consulting fees, or legal fees. Furthermore, they shall not be applied to reclamation efforts or cleanup costs associated with other types of contaminants which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, and processing and/or disposal costs of the waste tires.

B. In order to apply for and receive funding for tire site cleanup, local governments must provide the administrative authority with tire site information. This information includes, but is not limited to, accurate site location, number of tires on-site, visual report on-site with photographs and proximity to residences and schools. Such information will be submitted using forms available from the administrative authority.

C. Tire piles shall be chosen for cleanup based on their placement on the waste tire priority cleanup list. Tire piles shall be prioritized by summing numerical point values assigned for factors such as the number of tires in the pile, as well as proximity to residences and schools. These point values will be assigned in accordance with the values found in the Waste Tire Management Fund Prioritization System located in Schedule 1 in the Appendix. These ranking criteria consider threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

D. State agencies, municipal governments, or parish governments may consolidate several smaller waste tire piles provided they obtain prior approval from the administrative authority. Consolidating the piles for the purpose of remediation may increase the priority ranking of the site(s) in question.

E. All legal avenues for recovery from responsible parties of unauthorized and promiscuous waste tire sites will be exhausted.

F. Waste tires may not be removed from unauthorized or promiscuous waste tire piles without prior approval of the administrative authority.

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:

Schedule 1

Waste Tire Management Fund Prioritization System

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 210 points. The points shall be allocated according to the following criteria:

I. Classification of the tire pile.

Type of Tire Pile	Point Value
Promiscuous waste tire pile	100
Unauthorized waste tire pile	0

II. Approximate number of tires in the pile. This figure shall be the average value of three separate estimates. One estimate will be that of a department inspector, the other two must be from independent appraisers.

Number of Tires in Pile	Point Value
> 1,000,000	50
250,001 - 1,000,000	40
100,001 - 250,000	30
50,001 - 100,000	20
< 50,000	10

III. Proximity to nearest schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed for this factor is 25.

Proximity to Nearest School	Point Value
School within 2-mile radius	25
School within 4-mile radius	17
School within 6-mile radius	9
School outside 6-mile radius	0

IV. Proximity to residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed for this factor is 25.

Proximity to 50+ Residences	Point Value
50 or more within 1-mile radius	25
50 or more within 3-mile radius	17
50 or more within 5-mile radius	9
Less than 50 within 5-mile radius	0

V. An additional point value (not to exceed 10 points) shall be added as a result of dividing the number of tires in the pile by a factor of one million.

VI. Determination of Priority Ranking. Point values for items I through V above will be summed, with the resulting number being assigned as the priority points for the given site. As an example: a promiscuous tire pile containing 51,000 tires, located within a 4-mile radius of 80 households, and within 5 miles of a school would have a priority rating of 146.05.

William A. Kucharski
Secretary

9409#014

DECLARATION OF EMERGENCY

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

Home Health Agencies

(Editor's Note: The following declaration of emergency, which appeared on page 856 of the August 20, 1994 Louisiana Register, is being republished in order to provide a mailing address for obtaining a copy of the full text of the emergency rule.)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following emergency rule as authorized by R.S. 40:2009.31 - 40. Regulations governing home health agencies were last revised effective January 1992 and referenced in the *Louisiana Register*, Volume 18, No. 1, page 57. These regulations are contained in the LAC 48:I.General Administration, Subpart 3, Licensing and Certification, Chapter 91. Since that time there has been a tremendous expansion of home health agencies as well as the growth in utilization of these services by Louisiana's citizens. Therefore, in order to ensure that the licensure standards for these agencies incorporate all necessary safeguards to protect and promote the health and welfare of persons in need of home health services, the following emergency rule has been adopted.

The effective date of this emergency rule is July 22, 1994 and this rule shall be in effect for 120 days or until adoption of the rule under the Administrative Procedure Act, whichever occurs first.

Emergency Rule

Effective July 22, 1994, the Bureau of Health Services Financing hereby adopts the following regulations which govern the licensure of home health agencies on or after July 22, 1994. The provisions of the Minimum Standards for Home Health Agencies currently in effect as revised on January 20, 1992 and referenced in the *Louisiana Register*, Volume 18, No. 1, page 57 and found at LAC: 48:I.Chapter 91 shall remain in effect and govern home health agencies issued licenses prior to July 22, 1994 and shall continue to regulate these agencies until July 22, 1995. On July 23, 1995,

the provisions of this rule shall govern all home health agencies, regardless of date of issuance of license. Home health agencies must deliver home health services in compliance with all federal and state laws and regulations.

The full text of this emergency rule may be obtained from the Department of Health and Hospitals, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030 or from the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095.

Rose V. Forrest
Secretary

9409#040

DECLARATION OF EMERGENCY

Department of Labor
Office of Workers' Compensation

Insurance Cost Containment (LAC 40:I.1123-1129)

In accordance with the emergency provisions of R.S. 49:953(B) of the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1034.2 and R.S. 23:1203, the director of the Office of Workers' Compensation declares that the following rules and regulations are adopted to be effective October 1, 1994, for a period of 120 days or until the final rule is adopted, whichever occurs first.

The adoption of these rules is necessary because the legislature has mandated that the OSHA section of the Office of Workers' Compensation determine whether employers have satisfactorily implemented an occupational safety and health program. Without these rules, employers do not know what is necessary to meet the requirements of the program. The implementation of the program will encourage safety programs and reduce on-the-job injuries. The rules are also necessary so that employers may obtain the discount in workers' compensation premiums.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 11. Workers' Compensation Insurance Cost Containment Rules

§1123. Cost Credit Earned from Satisfactory Implementation

A. Any safety and health hazard survey of the work place by the OSHA section consultants, including an evaluation of the employer's safety and health program and on-site interviews with employers and employees under R.S. 23:1179, shall be on-site inspections. All permanent, temporary, and multiple work sites shall be subject to inspection.

B. The on-site inspection of each eligible employer who has attended an authorized cost containment meeting shall be made in two phases; namely, the initial phase and the follow-up phase. The OSHA section shall not determine whether an eligible employer has satisfactorily implemented the OSHA section's occupational safety and health program until the

initial and follow-up phases are completed. The effective date of qualification or disqualification of such eligible employer shall be the date of the report issued after the initial and follow-up phases are completed.

1. The initial phase shall be the first of any safety and health hazard surveys of the work place by the OSHA section, including an evaluation of the employer's safety and health program and on-site interviews with employers and employees by the OSHA section. The effective date of the completion of the initial phase shall be the date that the correction of hazards report is received by the OSHA section. The correction of all hazards identified during the on-site visit shall be made within six months of the visit.

2. The follow-up phase shall be a safety and health hazard survey of the work place by the OSHA section, including an evaluation of the employer's safety and health program and on-site interviews with employers and employees by the OSHA Section. This follow-up phase shall be conducted no earlier than six months after the initial phase is completed.

3. Notwithstanding the provisions of Subsection B.2 of this rule, the follow-up phase may be conducted earlier than six months after the initial phase is completed if the company has had an operational safety plan in effect for the prior 12 months, and if the company has satisfied all elements of management commitment and planning, hazard assessment, hazard correction and control, and safety and health training, as provided in Form Consultation-33, for the prior 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1179.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 20:

§1125. Qualification for Cost Credit under R.S. 23:1179

Employers shall be eligible for a reduction in their experience modifier rate pursuant to R.S. 23:1179 when all of the following conditions are met:

1. satisfactory implementation of the OSHA section's occupational safety and health program when the initial and follow-up phases are completed;

2. a loss work day incident rate less than the national average for their respective SIC, as indicated on their completed OSHA 200 form for the prior calendar year; and

3. no fatalities within the 24 months immediately preceding the initial inspection or, in the case of a reapplication, within the 24 months immediately preceding the date of the reapplication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1179.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 20:

§1127. Reapplication after Failure to Qualify

A. An employer that fails to qualify for the reduction in the experience modifier rate under R.S. 23:1179 because of a determination that the employer has not satisfactorily implemented the OSHA section's occupational safety and health program or because of its loss work day incident rate, shall be allowed to reapply for the reduction in the experience modifier rate after 12 months from the date of the final report.

B. An employer that fails to qualify for the reduction in the experience modifier rate under R.S. 23:1179 because of a

fatality shall be allowed to reapply no earlier than 24 months from the date of the fatality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1179.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 20:

§1129. Employer Eligibility for Safety and Health Program Assessment

Comprehensive program assessment shall be accomplished by category and by order that applications are received.

1. Category I shall consist of sites which have 250 employees or less, and 500 or less total employees at all sites controlled by the employer based on the average level of employment during the most recent 12 months. Sites operated by governmental agencies are specifically excluded.

2. Category II shall consist of all sites which do not meet the criteria of Category I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1179.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 20:

Alvin J. Walsh
Director

9409#038

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Board of Parole**

Sex Offenders (LAC 22:XI)

The Department of Public Safety and Corrections, Board of Parole, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to implement Acts 388 and 962 of the 1992 Regular Legislative Session and to adopt the following emergency rule, effective September 9, 1994.

Emergency rulemaking is necessary in order to protect and insure the safety of the public now that sex offenders are being released and residing in the community.

This emergency rule shall remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XI. Board of Parole

A. Purpose. The purpose of this regulation is to set forth procedures to be followed for notification, disclosure and dissemination of the information regarding sex offenders.

B. Responsibility. The Louisiana Board of Parole and the Department of Public Safety and Corrections, Division of Probation and Parole are responsible for ensuring implementation of this regulation.

C. Definitions

He—all forms of masculine pronouns are used. This is

intended to refer to either sex and is used as a matter of convenience.

Louisiana Board of Parole—the board.

Sex Offender—a person who has violated any of the following offenses, or the equivalent offense in another jurisdiction:

Abetting in Bigamy;
Forcible Rape;
Aggravated Crime Against Nature;
Incest;
Aggravated Oral Sexual Battery;
Indecent Behavior with a Juvenile;
Intentional Exposure to AIDS;
Aggravated Rape;
Molestation of a Juvenile;
Aggravated Sexual Battery;
Oral Sexual Battery;
Bigamy;
Pornography Involving a Juvenile;
Carnal Knowledge of a Juvenile;
Sexual Battery;
Crime Against Nature;
Simple Rape;

NOTE: Attempted offenses do not fall under these rules unless specifically required by the sentencing judge or the parole board.

D. Notification

1. All sex offenders residing in this state must notify the following of their name, address, place of employment, crime for which he was convicted, the date and place of such conviction, any alias used by him and his social security number:

- a. police department in area he will reside;
- b. sheriff department in area he will reside.

2. A sex offender shall within 30 days of being placed on probation or released on parole or within 45 days of establishing residence in Louisiana, notify the agencies listed in D.1.a - b.

3. A sex offender cannot change his address without prior notification to his probation and parole specialist and without the prior approval of his probation and parole specialist.

4. A sex offender changing his residence must send written notice to the agencies listed in D.1.a - b within 10 days of the change of residence if in the same parish. If the move is to a new parish, the sex offender must register with the agencies listed in D.1.a - b within 10 days of establishing his new residence.

5. The board shall send written notice at least 10 days prior to parole, community placement or work release placement to the following:

- a. the chief of police of the city in which a sex offender will reside or be placed for work release;
- b. the sheriff of the parish in which a sex offender will reside or be placed for work release;
- c. if requested in writing, the board shall also send notice to the following:
 - i. the victim of the crime or if the victim is under 16 to the parents, tutor or legal guardian of the child;
 - ii. any witnesses who testified against the sex offender;

iii. any person specified in writing by the prosecuting attorney.

E. Notification - Victim Under 18 Years Old

1. The board shall mail notice, within three days of its decision to release a sex offender, to the victim or the victim's parent or guardian if they were not present at the parole hearing of the following:

- a. the address where the sex offender will reside;
- b. a statement that the sex offender will be released on parole; and
- c. the date the sex offender will be released.

2. Sex offenders, whose victims were under the age of 18 at the time of the commission of the crime, must meet all requirements of Subsection D above as well as the following:

- a. A sex offender must give notice of the crime, his name and address by mail to the following:
 - i. all persons residing within a three square block area or a one square mile area if in a rural area in accordance with Form A;
 - ii. superintendent of public schools in the area he will reside;
 - iii. heads of all parochial and private schools in the area he will reside;
 - iv. child protective services in the area he will reside.

b. The above must be done within 30 days of either sentence to probation, release or parole, or acceptance by Louisiana through the Interstate Compact.

c. A sex offender shall publish notice of his name, address and crime for which he was convicted and paroled, on two separate days in the official journal of the governing authority of the parish where the sex offender will reside, in accordance with Form B.

d. The board may order any form of notice they deem necessary.

F. Additional Conditions

1. All sex offenders shall be subject to the same conditions as any other offender released on probation, parole, good time/parole supervision, work release, as well as those set forth above.

2. All sex offenders shall be subject to any special conditions as required by the board.

G. Term

1. All sex offenders must comply with these requirements for a period of 10 years after the conviction, if not imprisoned during that period in a penal institution, full-time residential treatment facility, hospital, or other facility or institution pursuant to the conviction. If the person required to register is imprisoned or confined to a penal institution, full-time residential facility, hospital, or other facility or institution pursuant to the conviction, he shall comply with the registration provision for a period of 10 years after release from his confinement or imprisonment. A convicted sex offender's duty to register terminates at the expiration of 10 years from the date of initial registration, provided that, during the 10-year period, he is not convicted of another sex offense.

2. All sex offenders may petition the court to be relieved of the duty to register. The petition shall be made to the court in which the petitioner was convicted of the offense that

subjects him to the duty to register, or, in the case of convictions in other states, to the district court of the parish in which the person is registered. The district attorney of the parish shall be named and served as the defendant in any such petition. The court shall consider the nature of the sex offense committed, and the criminal and relevant noncriminal offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. The court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purpose.

H. Release of Information

1. The board is authorized to release to the public the following information regarding sex offenders:

- a. name;
- b. address;
- c. crime convicted and paroled;
- d. date of conviction;
- e. date of release on parole or diminution of sentence;
- f. any other information that may be necessary and relevant for public protection.

2. The board can not release any information regarding victims or witnesses of sex crimes to the sex offender or the general public.

3. Verbal requests of information are acceptable. The chairman of the Board of Parole or his designated representative reserves the right to require a written request before releasing any information.

FORM "A"
STAMPED POST CARD

Under Louisiana Sex Offender laws, LA R.S. 15:540, et seq., and 15:574.4, I am required to notify you of the following information:

NAME: _____

ADDRESS: _____

OFFENSE OF CONVICTION: _____

These postcards will be stamped with your Probation and Parole Officer's return address. Prior to mailing, the Probation and Parole Officer will examine the cards for complete and correct information and to ensure that the appropriate number of postcards are being mailed.

FORM "B"

Under Louisiana Sex Offender laws, LA R.S. 15:540, et seq., and 15:574.4, I am required to provide the following information:

NAME: _____

ADDRESS: _____

OFFENSE OF CONVICTION: _____

You will present this completed form to the official publication(s) in your area, fill in their name and address, pay to have the ad run for two days, and return your receipt for payment for your Probation and Parole Officer. Additionally, you will obtain newspapers printed on the dates that your ad is run and present them to your Probation and Parole Officer as proof of publication.

Name of Publication	Name of Publication
Address	Address
City/State/Zip Code	City/State/Zip Code

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:540 et seq. and R.S. 15:574.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 20:

Ronald Bonvillian
Chairman

9409#039

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamps—Certification of Eligible Households (LAC 67:III.Chapter 19)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Food Stamp Program effective September 1, 1994. This rule shall remain in effect for a period of 120 days.

Pursuant to compliance with Public Law 103-66, the food stamp provisions of which are called the Mickey Leland Childhood Hunger Relief Act, changes in Food Stamp Program policy are necessary to avoid federal sanctions which could be imposed for failure to implement. Revisions were generally intended to eliminate inconsistent policies and increase participation.

Some sections are being repealed because the same information appears in other sections. Since various provisions were effective at different times, this emergency rule also incorporates the emergency Food Stamp Program declarations which were first effective July 1 and August 1 of this year. A notice of intent will encompass all of the changes herein.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter A. Household Concept

§1901. Household Composition

A. The definition includes a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

1. Parents and natural, adopted, or step-children 21 years of age and under, shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so, unless the child is a parent living with their child(ren) or is married and living with their spouse.

2. Adult siblings, 18 years old or older, who live together may be separate households if they purchase and prepare food separately.

3. Adult children, 22 years old or older, who live with their parents may be separate households if they purchase and prepare food separately.

B. Boarder status, in addition to other restrictions, shall not be granted to children living with parents if both parents are under age 60.

C. The definition of a household provides that elderly individuals (and their spouses) who cannot prepare their own meals because they suffer from disabilities considered permanent under the Social Security Act or some other physical or mental non-disease-related disabilities may be a separate household even if living and eating with others. This

is limited to those cases where the gross income of the individuals with whom the elderly or disabled person resides does not exceed 165 percent of the poverty level.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:52328 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.1, P.L. 100-77, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:62 (February 1983), LR 9:130 (March 1983), LR 13:643 (November 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support, LR 20:

Subchapter H. Resource Eligibility Standards

§1947. Resources

A. An IRA, or individual retirement account, less the amount that would be lost as penalty for early withdrawal of the entire account, is included in a households resources.

B. The fair market value of vehicles which is excluded in determining a household's resources is \$4,550.

AUTHORITY NOTE: Promulgated in accordance with F.R. 7:55463 et seq. and 47:55903 et seq., 7 CFR 273.8, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:

§1949. Exclusions from Resources

A. The following are excluded as a countable resource:

1. nonliquid asset(s) against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the lien holder (creditor) from selling the assets;

2. property, real or personal, to the extent that it is directly related to the maintenance or use of an income producing vehicle or a vehicle necessary to transport a physically disabled household member. Only that portion of real property determined necessary for maintenance or use is excludable under this provision;

3. inaccessible resource, that is, one whose sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. Verification shall be required only if the information provided by the household is questionable;

4. the value of a vehicle used to carry the primary source of fuel for heating or water for home use.

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

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:429 (August 1987), amended LR 13:656 (November 1987), LR 17:953 (October 1991), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:

Subchapter I. Income and Deductions

§1955. Earned Income Deduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 20:

§1963. Adjustment of Shelter Deduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 20:780 (July 1994), LR 20:

§1964. Standard Shelter Estimate

Homeless households which do not receive free shelter throughout the calendar month shall be entitled to a Standard Shelter Estimate (SSE). All homeless households which incur or reasonably expect to incur shelter costs during a month shall be eligible for the SSE unless higher shelter costs are verified. If shelter costs in excess of the SSE are verified, the household may use actual costs.

AUTHORITY NOTE: Promulgated in accordance with F.R. 56:63614, 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), amended, LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:

§1965. Standard Utility Allowance (SUA)

A. The Food Stamp Program shall maintain the provision that allows households to use a single standard utility allowance or actual verified utility costs in calculating shelter costs. The SUA shall be available only to households which incur heating or cooling costs separate and apart from their rent or mortgage. To be qualified, the household must be billed on a regular basis for months in which the household is actually billed for heating or cooling costs. However, during the heating season a household that is billed less often than monthly, but is eligible to use the standard allowance, may continue to use the standard allowance between billing months.

The SUA is available to those households receiving energy assistance payments or reimbursements but who continue to incur heating or cooling costs that exceed the payment during any month covered by the certification period.

B. Any household living in a housing unit which has central utility meters and which charges the household for excess utility costs only, shall not be permitted to use the SUA. However, if a household is not entitled to the SUA, it may claim the actual utility expenses which it does pay separately.

C. Where the household shares a residence and utility costs with other individuals, the SUA shall be divided equally among the parties which contribute to meeting the utility costs. In such cases, the household shall only be permitted to use its prorated share of the standard allowance, unless the household uses its actual costs.

D. Households can switch between the SUA and actual utility costs at each recertification and one additional time during each 12-month period following the initial certification.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:51551 et seq., 7 CFR 272 and 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February

1983), amended by the Department of Social Services, Office of Family Support, LR 20:860 (August 1994), LR 20:

§1975. Earned Income Tax Credits (EITC)

Advance payment of EITC will not be counted as income for food stamp purposes. However, the amount will be counted toward the household's resources just as EITC payments made as tax refunds are.

Exclude EITC as resources for 12 months from receipt if the recipient is participating in the Food Stamp Program when the EITC is received and continuously participates for the 12 months following receipt.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 and P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:74 (February 1989), amended LR 15:393 (May 1989), amended by the Department of Social Services, Office of Family Support, LR 20:

§1980. Income Exclusions

A. Payments or allowances to provide energy assistance under any federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, are excluded as income, and the expense is not deductible.

B. Earnings of an elementary or secondary student through age 21 who is a member of the household are excluded.

C. Vendor payments for transitional housing for the homeless are excluded.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66 and 7 CFR 273.9(c)(11).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:

§1981. Utility Allowance for Indirect Energy Assistance
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:486 (August 1986), amended LR 12:768 (November 1986), repealed by the Department of Social Services, Office of Family Support, LR 20:

§1983. Income Deductions and Resource Limits

A. In determining eligibility and benefit levels, the household is allowed deductions for certain costs.

1. The earned income deduction is 20 percent of total countable gross earnings.

2. The maximum shelter deduction is \$231 for households which do not include a member who is elderly or disabled.

3. The maximum dependent care deduction is \$200 per month for each child under 2 years of age and \$175 for each other dependent.

A child care expense that is paid for or reimbursed by the Job Opportunities and Basic Skills Training Program or the Transitional Child Care Program is not deductible except for that expense which exceeds the payment or reimbursement.

B. The resource limit for a household is \$2,000, and the resource limit for a household which includes at least one elderly member is \$3,000.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, P.L. 103-66, 7 CFR 273.9 and 273.10 (d)(1)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:

§1989. Prorated Initial Allotment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:6990 et seq., 7 CFR 273.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:321 (April 1990), repealed LR 20:

§1991. Initial Month's Benefits

A. Initial month means either the first month for which an allotment is issued to a household, or the first month for which an allotment is issued to a household following any period of more than a month during which the household was not certified for participation in the Food Stamp Program.

B. A household's benefit level for the initial month of certification will be based on the day of the month it applies for benefits. Using a 30-day calendar or fiscal month, households shall receive benefits prorated from the day of application to the end of the month. A household applying on the thirty-first of a month will be treated as though they applied on the thirtieth of the month. If the prorated allotment results in an amount of \$1, \$3, or \$5, the allotment shall be rounded to \$2, \$4, or \$6.

C. Households who have applied for initial month's benefits after the fifteenth of the month, completed the application, provided all required verification, and have been determined eligible to receive benefits for the initial month of application and the next subsequent month shall receive their prorated allotment for the initial month of application and their first full month's allotment at the same time. In determining initial month benefits, the result of the proration will be rounded down to the nearest lower dollar increment. If the calculation results in an allotment of less than \$10, then no benefits will be issued.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.10, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:

§1997. Drug and Alcohol Treatment Centers

A. Residents of publicly operated community mental health centers which provide the same type of residential programs for alcoholic or drug rehabilitation as private, nonprofit institutions will be considered individual households and, if eligible, may participate in the Food Stamp Program.

B. Drug addicts or alcoholics and their children who are residents in an approved public or private, drug or alcohol treatment center program may participate in the Food Stamp Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:6511 et seq., 7 CFR 273.11, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:366 (June

1986), amended by the Department of Social Services, Office of Family Support, LR 20:

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

* * *

B. The basis for disqualification is expanded to include the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as, the commission of any act that constitutes a violation of any state food stamp statute and the use of food stamps in certain illegal purchases. The Office of Family Support, hereinafter referred to as the "agency," will not increase the benefits to the household of a disqualified person because of the disqualification.

1. Mandatory disqualification periods of six months for the first offense, 12 months for the second, and permanently for the third offense will be imposed against any individual found to have committed an intentional program violation, regardless of whether the determination was arrived at administratively or through a court of law.

2. Recipients will be disqualified for one year for a first finding by a court that the recipient purchased illegal drugs with food stamps, and permanently for a second such finding. Permanent disqualification will also result for the first finding by a court that the recipient purchased firearms, ammunition or explosives with food stamps.

* * *

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, 102-237 §911, 7 CFR 272, 273, 276 and 277, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:898 (August 1994), LR 20:

Gloria Bryant-Banks
Secretary

9409#013

DECLARATION OF EMERGENCY

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

Plan Document—Durable Medical Equipment

In accordance with the applicable provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby finds that imminent peril to the public health and welfare exists which requires the adoption of the following emergency rule relative to durable medical equipment in order

to avoid disruption or curtailment of services to state employees and their dependents who are covered by the State Employees Group Benefits Program.

This emergency rule shall remain in effect for a maximum of 120 days or until such time as it is promulgated as a final rule, whichever occurs first.

The purpose, intent, and effect of these amendments to the plan document is to expand the scope of durable medical equipment to include electric wheelchairs, while establishing a procedure for capping the costs and substantiating the medical necessity for such equipment.

Effective August 11, 1994, the plan document for the State Employees Group Benefits Program is amended in the following particulars:

(1) The Schedule of Benefits, under the category "Durable Medical Equipment" on page 6, is amended to add four asterisks (****) to reference the footnote to be added at the end of the page which shall read as follows:

****Additionally, benefits for durable medical equipment are also limited to the maximum benefit reimbursement level established for certain articles of durable medical equipment by the Board of Trustees.

(2) Article 1, Section I, Subsection X, on page 12, shall read as follows:

I. Definitions

* * *

X. The term *Durable Medical Equipment* as used herein shall mean medical equipment designed for repeated use and which is shown by the plan member to the satisfaction of the program to be medically necessary for the treatment of a disease, illness, accident or injury, to improve the functioning of a disabled body member, or to prevent further deterioration of the patient's medical condition. *Durable Medical Equipment* shall include, but not be limited to, such items as wheelchairs, hospital beds, respirators, braces (other than dental), and other items that the program may determine to be durable medical equipment.

In the event a plan member incurs expenses for an electric wheelchair or similar transportation device, the program will consider as an eligible expense the maximum allowable benefit of one electric wheelchair.

(3) Article 3, Section I, Subsection F, Paragraph 16, on page 28 shall read as follows:

I. Comprehensive Medical Benefits

* * *

F. Eligible Expenses

* * *

16. Durable medical equipment required for treatment of a nonoccupational disease, illness, accident or injury subject to the annual and lifetime maximum payment limitations set forth in the schedule of benefits and the maximum benefits reimbursement level established for certain articles of durable medical equipment by the Board of Trustees. The program may require written certification by the treating physician and substantiate the medical necessity for the equipment and the anticipated length of time the use of the equipment will be medically necessary.

James R. Plaisance
Executive Director

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1994-95 Waterfowl Hunting Seasons Ducks, Coots and Geese

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.

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 season dates, bag limits and shooting hours will become effective November 12, 1994 and extend through sunset on February 14, 1995.

The hunting seasons for ducks, coots and geese during the 1994-95 hunting season shall be as follows:

Ducks and Coots:

West Zone: (40 days)

November 12 (Saturday) - November 27 (Sunday)

December 17 (Saturday) - January 9 (Monday)

East Zone: (40 days)

November 19 (Saturday) - November 27 (Sunday)

December 17 (Saturday) - January 16 (Monday)

Catahoula Lake Zone: (40 days)

November 19 (Saturday) - November 27 (Sunday)

December 10 (Saturday) - January 9 (Monday)

Daily Bag Limits: The daily bag limit on ducks is three and may include no more than two mallards (no more than one of which may be a female), one black duck, two wood ducks, one pintail, one canvasback and one redhead. Daily bag limit on coots is 15.

Mergansers - The daily bag limit for mergansers is five, only one 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: Statewide Season

November 12 - December 4; December 17 - February 1; and February 2 - February 14. Daily bag limit is seven in the aggregate of blue, snow and white-fronted geese of which not more than two may be white-fronted (specklebellies). During the last 13 days (February 2 - February 14), only blue and snow geese may be taken. During the Canada Goose Season (January 18 - January 26) the daily bag limit for Canada and white-fronted geese is two, of which not more than one can be a Canada goose. Possession limit is twice the daily bag limit.

Canada Goose Season: January 18 - January 26

A Canada Goose Season will be open in a portion of southwest Louisiana. The area shall be described as follows: Easterly from the Texas line along Highway 12 to Ragley; then easterly along U.S. 190 from Ragley to its junction with

I-49 near Opelousas; then south along I-49 to its junction with Highway 167 near Lafayette; then south along Highway 167 from Lafayette to its junction with Highway 82 at Abbeville; then south and west along Highway 82 to the Intracoastal Waterway at Forked Island; then westerly along the Intracoastal Waterway from Forked Island to the junction of the Intracoastal Waterway and the Calcasieu Ship Channel; then south along the west side of the Calcasieu Ship Channel to Highway 82 at Cameron; then westerly along Highway 82 to the Texas line. All lands lying within these boundaries shall be open for the Canada Goose Season except all open waters of Lake Arthur and the Mermentau River from Highway 14 bridge south.

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 the Lake Charles, Opelousas and Baton Rouge offices.

Return of harvest information requested on permit is mandatory. Failure to submit this information to the department by February 15, 1995 will result in the hunter not being allowed to participate in the Canada Goose Season the following year.

Shooting Hours: One-half hour before sunrise to sunset.

John F. "Jeff" Schneider
Chairman

9409#017

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Fur Harvest Season Dates

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, R.S. 49:467(D) which provides that the Wildlife and Fisheries Commission use emergency procedures to set the 1994-95 fur harvest season statewide from December 1, 1994 through March 15, 1995, authority to extend or shorten the adopted season by the secretary is hereby authorized by the Wildlife and Fisheries Commission.

John F. "Jeff" Schneider
Chairman

9409#018

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

"Roe" Mullet Season Dates

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

A framework of seasons is hereby set for the harvest of mullet. A "pre-ro" season is set to run from 12:01 a.m. September 15 until 12 p.m. (midnight) of the Sunday preceding the third Monday in October of each year. A "ro" season is set to run from 12:01 a.m. of the third Monday in October until midnight January 14 of the following year. A "non-ro" season is set to run from 12:01 a.m. January 15 until midnight September 14 of each year.

The commission takes this action in order to provide the industry with a consistent opening date at the beginning of the work week in order to reduce costs and enhance the economic benefits of the fishery. A notice of intent for a permanent rule to this effect is also being promulgated.

John F. "Jeff" Schneider
Chairman

9409#019

RULES

RULE

Department of Economic Development
Board of Architectural Examiners

Limited Liability Companies
(LAC 46:I.Chapters 1, 9, 11, 13, 15)

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners has amended and repromulgated LAC 46:I.103 pertaining to its rulemaking process and defining the term *architect* to include a limited liability company; LAC 46:I.901 pertaining to registration information and providing a procedure whereby a limited liability company may obtain information regarding registration; LAC 46:I.905 pertaining to certificates and providing that limited liability companies may obtain a certificate of registration; LAC 46:I.1101 pertaining to licensing renewal procedure and providing a

licensing renewal procedure for limited liability companies; LAC 46:I.1315 pertaining to the name of a sole proprietorship, partnership, group, association, or limited liability company; and LAC 46:I.1321 pertaining to the use of fictitious names by a limited liability company. In addition, the board has adopted LAC 46:I.1335 pertaining to the name of a limited liability company and LAC 46:I.1505 pertaining to the practice of architecture in this state by a limited liability company. All of these amendments and new rules regulate the practice of architecture in this state by limited liability companies.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 1. General Provisions

§103. Rulemaking Process

A. The Louisiana State Board of Architectural Examiners operates pursuant to these rules, adopted under the authority of R.S. 1950, Title 37, Chapter 3 as amended.

B. For purposes of these rules, the term *architect* means a person who is technically and legally qualified to practice architecture in Louisiana including a professional architectural corporation certified by the board pursuant to the provisions of R.S. 12:1086 et seq., an architectural-engineering corporation certified by the board pursuant to the provisions of R.S. 12:1171 et seq., and a limited liability company certified by the board pursuant to the provisions of R.S. 12:1301 et seq. The term *board* means the Louisiana State Board of Architectural Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 9:333 (September 1978), amended LR 10:737 (October 1984), and amended by Department of Economic Development, Board of Architectural Examiners, LR 20: (September 1994).

Chapter 9. Registration Procedure

§901. Registration Information

To obtain information regarding registration to practice architecture in Louisiana an individual, a corporation which satisfies the requirements of the Professional Architectural Corporations Law, an architectural-engineering corporation which satisfies the requirements of the Architectural-Engineering Corporation Law, and a limited liability company which satisfies the requirements of the Limited Liability Company Law shall write the board indicating whether the applicant seeks to be registered as an architect, a professional architectural corporation, an architectural-engineering corporation, or a limited liability company. The applicant will then receive instructions on the procedure to follow.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:384 (September 1978), LR 10:788 (October 1984), and amended by Department of Economic Development, Board of Architectural Examiners, LR 15: (January 1989) and LR 20: (September 1994).

§905. Certificates

A. Upon granting registration and issuance of a license to practice architecture, a copy of the licensing law and the rules of the board shall be forwarded to the registrant.

B. Only individuals, professional architectural corporations, architectural-engineering corporations, and limited liability companies who have met the statutory registration requirements through established board rules shall receive certificates of registration.

C. Each holder of a certificate shall maintain the certificate in his principal office or place of business in this state.

D. A replacement certificate will be issued to a registrant to replace one lost or destroyed, provided the current annual registration renewal is in effect, the registrant makes proper request and submits an acceptable explanation of the loss or destruction of the original certificate, and the registrant pays a fee to be set by the board.

E. Registrants 65 years of age or older, who have retired from active practice may request emeritus status. The annual renewal fee for approved emeritus registrants will be \$5. Revocation and reinstatement rules will otherwise apply to emeritus registrants, just as they do to all other registrants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978) and LR 10:738 (October 1984), and amended by Department of Economic Development, Board of Architectural Examiners, LR 15: (January 1989) and LR 20: (September 1994).

Chapter 11. Administration

§1101. Renewal Procedure

A. A License for individual architects shall expire and become invalid on December 31 of each year. Licenses for professional architectural corporations architectural-engineering corporations, and limited liability companies shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company to obtain, complete, and timely return a renewal form and fee to the board office, which forms are available upon request from said office.

C. Prior to December 1 of each year the board shall mail to all individuals currently licensed a renewal form. An individual who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The fee shall be determined by the board, not to exceed \$50. Upon payment of renewal fee the executive director shall issue a renewal certificate.

D. Prior to June 1 of each year the board shall mail to all professional architectural corporations, architectural-engineering corporations, and limited liability companies currently licensed a renewal form. A professional architectural corporation, an architectural-engineering corporation, and a limited liability company which desires to

continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The fee shall be \$50. Upon payment of the renewal fee, the executive director shall issue a renewal license.

E. Failure to renew a license timely shall not deprive the architect of the right to renew thereafter.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation, an architectural-engineering corporation, or a limited liability company of the right to renew thereafter. A professional architectural corporation an architectural-engineering corporation, or a limited liability company who transmits its renewal form and fee to the board subsequent to June 30 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in preceding Subsection D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), LR 10:739 (October 1984), amended LR 10:737 (October 1984), and amended by Department of Economic Development, Board of Architectural Examiners, LR 20: (September 1994).

Chapter 13. Titles, Firm Names, and Assumed Names
§1315. Sole Proprietorship, Partnership, Group, Association, or Limited Liability Company

The firm name of any form of individual, partnership, corporate, limited liability company, group, or associate practice must comply with all of the rules set forth in this Chapter.

ALLOWED	NOT ALLOWED
John Smith, Architect	John Smith
John Smith, AIA, Architect	John Smith, AIA
John Smith, Architect, AIA	
John Smith & Associates John Smith, Architect	
Smith & Jones, Architect & Engineer John Smith, Architect	Smith & Jones, Architects & Engineer (if either Smith or Jones are not licensed architects engaged in the active practice of Architecture)
Smith & Jones, Architects & Engineer (if Smith and Jones are both licensed architects engaged in the active practice of architecture)	Smith & Jones, Architects (if either Smith or Jones are not licensed architects engaged in the active practice of architecture)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:6; and amended LR 20: (September 1994).

§1321. Fictitious Name

For the purposes of these rules, a fictitious name is any name other than the real name or names of an individual. Any individual, partnership, corporation, limited liability company, group, or association may practice architecture under a fictitious name provided the name complies with all of the rules of this Chapter.

ALLOWED	NOT ALLOWED
Heritage Architecture John Smith, Architect	Heritage Architecture
Architectural Design John Smith, Architect	Architectural Design
Architectural Design Consultants John Smith, Architect Jack Jones, Architect	Architectural Design Consultants - John Smith, Architect
Heritage Architects, A Professional Corporation John Smith, Architect	

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:6; and amended LR 20: (September 1994).

§1335. Limited Liability Company

The name of a limited liability company registered with the board must comply with La. R.S. 12:1306 and include the words "Limited Liability Company."

ALLOWED	NOT ALLOWED
Smith & Jones, Architects, A Limited Liability Company	Smith & Jones, Architects (if the entity is a limited liability company)
	Smith & Jones, Architects, L.L.C.
	Smith & Jones, Architects, L.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 20: (September 1994).

Chapter 15. Professional Architectural Corporations, Architectural Engineering Corporations, and Limited Liability Companies

§1505. Limited Liability Companies

A. The practice of architecture by limited liability companies is only permissible when lawfully constituted under the laws pertaining to limited liability companies, R.S. 12:1301, et seq.

B. No person, firm, partnership, corporation, or group of persons shall solicit, offer, execute, or perform architectural services in this state as a limited liability company without

first receiving a certificate from the board authorizing the limited liability company to do so.

C. A limited liability company soliciting, offering, contracting to perform, or performing the practice of architecture shall be subject to the discipline of the board and to its authority to adopt rules and regulations governing the practice of architecture.

D. A limited liability company may solicit, offer, contract to perform, or perform the practice of architecture only if a majority of the membership of the limited liability company is owned by one or more natural persons duly licensed to practice architecture in this state.

E. Any person seeking to be certified to practice architecture as a limited liability company shall request in writing an application to do so from the office of the board. The request shall state the name of the proposed limited liability company. The applicant is required to complete said application fully and return same to the executive director. Upon receipt of such application and the fee, the board shall promptly either approve said application and certify the limited liability company as authorized to practice architecture or disapprove said application advising the applicant of the reasons therefor.

F. Architectural services rendered on behalf of a limited liability company must be performed by or under the direct supervision of a natural person duly licensed to practice architecture in this state.

G. The architects licensed in this state who perform such architectural services or directly supervise such services will be responsible to this board for all acts and conduct of such limited liability company.

H. It will be the responsibility of all architects named in an application to be certified as a limited liability company to advise the board of any organizational change that would relate to the authority granted under this rule. Failure to do so could result in disciplinary action leading to suspension, revocation, or rescission of the registrants' license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 20: (September 1994).

Mary "Teeny" Simmons
Executive Director

9409#015

RULE

Department of Economic Development Board of Examiners of Certified Shorthand Reporters

Methods of Reporting (LAC 46:XXI.511)

In accordance with R.S. 37:2554 and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Examiners of Certified Shorthand Reporters hereby adopts LAC 46:XXI.511. This rule defines the methods of court reporting and requires the court reporter to indicate their method of certification on the certification page of any verbatim record.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 5. Certificates

§511. Methods of Reporting

A. Each reporter shall be certified in one of the following four methods of reporting.

1. Stenotype. A stenotype reporter is anyone who uses a stenotype machine and shorthand symbols to produce a verbatim transcript of any oral court proceeding, sworn statement, public hearing, deposition, or related proceeding.

2. Stenomask. A stenomask reporter is anyone who uses a stenomask machine, which consists of a microphone enclosed in a mask, to produce a verbatim transcript of any oral court proceeding, sworn statement, public hearing, deposition, or related proceeding.

3. Penwriter. A penwriter reporter is anyone who uses handwritten shorthand symbols to produce a verbatim transcript of any oral court proceeding, sworn statement, public hearing, deposition, or related proceeding.

4. Electronic. An electronic reporter is anyone who converts an electronic recording into a verbatim transcript of any oral court proceeding, sworn statement, public hearing, deposition, or related proceeding.

B. A reporter shall identify on the certification page of any verbatim record prepared by that reporter the method of reporting in which the reporter holds certification by the board.

C. A reporter shall practice only the method of reporting for which certified by the board and shall not mislead the public by purporting to utilize other methods for which the reporter has not been certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 20: (September 1994).

Peter Gilberti
Secretary

9409#024

RULE

Board of Elementary and Secondary Education

8(g) Annual Program and Budget

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the Quality Education Support Fund 8(g) Annual Program and Budget for Fiscal Year 1994-95 as stated below. This is an amendment to the 8(g) Program and Budget which appeared in the March, 1994 issue of the *Louisiana Register* and supersedes that notice of intent.

8(g) Annual Program and Budget (FY 1994-95)

Competitive Allocation

I. Exemplary Competitive Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills	
A. Elementary/Secondary Education (Grades K-12)	\$ 2,850,000
B. Vocational Technical Education (Public Postsecondary)	750,000

Block Grant Allocation

II. Exemplary Block Grant Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills	
A. Elementary and Secondary Education	6,200,000
1. Early Childhood Education (Pre-K - Third Grade)	
2. Student Enhancement (Grades 4 - 12)	
3. Educational Technology	
B. Preschool/Early Childhood Program	3,410,000
C. Vocational Education	800,000
1. Extension	
2. Accreditation/Certification	

Statewide Allocation

III. Exemplary Statewide Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills	
A. Elementary/Secondary	
1. Creative/Academic Scholars Programs	150,000
2. Mini Grant Awards of Excellence	200,000
3. Statewide Distance Learning Network	1,510,000
4. Enhancement of Secondary Math and Physics	100,000
5. Academic/Vocational Enhancement of BESE Special Schools	120,000
6. Multisensory Arts Program	602,022
7. LA Women in Politics Civics Project	50,000
B. Vocational Education	
1. Educate America/School to Work Program	50,000
2. Occupational Competency Testing Program	15,000
3. VTIE Certification Program	100,000
4. Statewide Quickstart Programs	700,000
5. Vocational Skills Enhancement Programs	1,500,000
C. Professional Development	
1. Leadership Academy: Assessment and Development	300,000
2. Innovative Professional Development Program	2,005,000
3. Tuition Exemption Basic Program	2,000,000
4. Instructional Enhancement Program	1,170,000
5. LaSIP Math/Science Initiative	1,000,000
6. Louisiana Geography Education Alliance	50,000
7. Accelerated Schools—	
Staff Development Program	110,000
8. High Schools that Work—	
Staff Development Program	260,000
9. Humanities Institutes	220,000

IV. Research or Pilot Programs Designed to Improve Student Academic Achievement	
A. Louisiana Educational Assessment Program	1,000,000
B. Accelerated Schools—Pilot Projects	350,000
C. High Schools that Work—Pilot Projects	312,000
V. Purchase of Superior Textbooks, Library Books, and Other Instructional Materials	3,000,000
VI. Teaching of Foreign Languages in Elementary and Secondary Schools	180,000
VII. Scholarships or Stipends to Prospective Teachers in Critical Shortage Areas	
A. Education Majors Program	1,000,000
B. Post-baccalaureate Scholarship Program	150,000
Management and Oversight	
Administration (.9%)	297,575
Fiscal/Programmatic Evaluation (1.1%)	357,974
Total	\$32,869,571

AUTHORITY NOTE: Promulgated in accordance with LA Constitution, Art. VII, Section 10.0, R.S. 17:3801.

Carole Wallin
Executive Director

9409#052

RULE

Board of Elementary and Secondary Education

Lafourche Technical Institute (LAC 28:I.111)

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted the following changes to the Lafourche Technical Institute System: (1) changed the name of Thibodaux Area Technical Institute to Lafourche Technical Institute, North Campus, (2) transferred the Golden Meadow Campus of South Louisiana Regional Technical Institute to the Lafourche Technical Institute and renamed it the Lafourche Technical Institute, South Campus. This is an amendment to the *Louisiana Administrative Code*, Title 28 as noted below:

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 1. Organization**

§111. Vocational Technical Schools

A. Postsecondary vocational technical schools under the jurisdiction of the board are:

- 41. Lafourche Technical Institute
 - a. Lafourche Technical Institute, North Campus
 - b. Lafourche Technical Institute, South Campus

AUTHORITY NOTE: Promulgated in accordance with the LA Constitution, Article VIII, Sec. 3(A); R.S. 17:1991-2009.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:297 (April 1990), amended LR 17:880 (September 1991), LR 18:1118 (October 1992), LR 18:1250 (November 1992), LR 20: (September 1994).

Carole Wallin
Executive Director

9409#047

RULE

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

Certification of Radiographers (LAC 33:XV.575, 578, and 579) (NE12L)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2101 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Radiation Protection Division Regulations, LAC 33:XV.Chapter 5, (NE12L).

This rule amends the Radiation Protection Division's regulations concerning industrial radiographers' certification requirements, requiring that all radiographers take an examination every five years to be certified to perform industrial radiography in Louisiana. The division believes this action to be necessary to enhance the level of radiation protection in the state.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

A. No licensee or registrant shall permit any individual to act as a radiographer, as defined in this Chapter, until such individual:

1. has been instructed for at least 40 hours in the subjects outlined in I, II, and III, Appendix A of this Chapter, and has demonstrated understanding thereof pursuant to LAC 33:XV.575.A.6. Both the instructor and the course of instruction must be approved by the division prior to the time of instruction;

2. has completed on-the-job training supervised by one or more radiographer instructors:

a. the instructor shall be authorized on the license or certificate of registration;

b. the on-the-job training shall include at least:

i. 200 hours of active participation in radioactive materials industrial radiography operations for an individual to perform industrial radiography utilizing radioactive materials, and/or

ii. 120 hours of active participation in x-ray industrial radiography operations for an individual to perform industrial radiography utilizing x-rays;

c. the hours of on-the-job training do not include safety meetings or classroom training or the use of a cabinet x-ray unit; and

d. the form DRC-20, available from the division, or the equivalent, must be submitted to the division documenting the on-the-job training;

3. has received copies of and instruction in the regulations contained in this Chapter and the applicable sections of LAC 33:XV.Chapters 4 and 10, appropriate license(s), and the licensee's or registrant's operating and emergency procedures, and has demonstrated understanding thereof pursuant to LAC 33:XV.575.A.5 and 6;

4. has demonstrated competence pursuant to LAC 33:XV.575.A.5 and 6 to use the sources of radiation, radiographic exposure devices, related handling tools, and radiation survey instruments which may be employed in his assignment;

5. has successfully completed a company-specific written examination and field test covering the subjects listed in LAC 33:XV.575.A.3 and 4; and

6. has successfully completed within the last five years a radiation safety examination administered by the division or its agent. The examination must be successfully completed at least once every five years.

B. Each licensee or registrant shall maintain, for inspection by the division, until disposition is authorized by the division, records of the above training and certification, including copies of written tests and dates and results of oral tests and field examinations.

C. Each licensee or registrant shall conduct a program of internal audits to ensure that the Radiation Protection Division's Regulations (LAC 33:XV), Louisiana radioactive material license conditions, and the licensee's or registrant's operating and emergency procedures are followed by each radiographer. These internal audits shall be performed at least quarterly, and each radiographer shall be audited at least quarterly. Records of internal audits shall be maintained for review by the division for two consecutive years from the date of the audit.

D. Each licensee or registrant shall provide, as a minimum, twoperson crews consisting of at least two qualified radiographers or a qualified radiographer and an approved instructor when sources of radiation are used at temporary jobsites.

E. A radiation safety officer (RSO) shall be designated for every industrial radiography license, and a certificate of registration shall be issued by the department. The RSO's qualifications shall include:

1. possession of a high school diploma or certificate of high school equivalency based on the GED test;

2. completion of the training and testing requirements of LAC 33:XV.575;

3. two years of documented radiation protection experience, including knowledge of industrial radiographic operations, with at least 40 hours of active participation in industrial radiographic operations; and

4. four hours of emergency source retrieval training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20: (September 1994).

§578. Reciprocity

A. Reciprocal recognition by the division of an individual radiographer certification will be granted provided that:

1. the individual holds a valid certification in the appropriate category and class issued by another state or jurisdiction;
2. the requirements and procedures for certification in the state of jurisdiction issuing the certification afford the same or comparable certification standards as those afforded by LAC 33:XV.575; and
3. the applicant presents the certification to the division prior to entry into Louisiana.

B. Certified individuals who are granted reciprocity by the division shall maintain the certification upon which the reciprocal recognition was granted or prior to the expiration of such certification, shall meet the requirements of LAC 33:XV.575.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20: (September 1994).

§579. Identification Cards

A. Issuance of I.D. Card

1. An I.D. card shall be issued to each person who successfully completes the requirements of LAC 33:XV.575.A.

2. Each person's I.D. card shall contain his/her photograph. The division will take the photograph at the time the examination is administered.

3. The I.D. card remains the property of the state of Louisiana and may be revoked or suspended under the provisions of LAC 33:XV.579.

4. Any individual who wishes to replace his/her I.D. card shall submit to the division a written request for a replacement I.D. card, stating the reason a replacement I.D. Card is needed. A non-refundable fee of \$20 shall be paid to the division for each replacement of an I.D. card. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the division.

B. Expiration of I.D. Card. Each I.D. card is valid for a period of five years, unless revoked or suspended in accordance with LAC 33:XV.579. Each I.D. card expires at the end of the day indicated on the I.D. card.

C. Renewal of I.D. Card

1. Applications for examination to renew an I.D. card shall be filed in accordance with LAC 33:XV.575.

2. The examination for renewal of an I.D. card shall be administered in accordance with LAC 33:XV.575.

3. A renewal I.D. card shall be issued in accordance with LAC 33:XV.579.

D. Revocation or Suspension of an I.D. Card

1. Any radiographer who violates these rules may be required to show cause at a formal hearing why his/her I.D. card should not be revoked or suspended in accordance with these rules.

2. When a division order has been issued for an industrial radiographer to cease and desist from the use of sources of radiation or the division revokes or suspends his/her I.D. card, the industrial radiographer shall surrender the I.D. card to the division until the order is changed or the suspension expires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20: (September 1994).

James B. Thompson, III
Assistant Secretary

9409#035

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division**

HSWA I and II Revisions (LAC 33:V.Subpart 1) (HW39L)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary hereby amends the Hazardous Waste Division Regulations, LAC 33:V, (HW39L).

The changes include a broad scope of topics: general provisions for treatment, storage, and disposal facilities, permits, manifest requirements, generator requirements, air emission standards, waste piles, landfills, land treatment, surface impoundments, incinerators, groundwater protection, closure and post closure, recyclable materials, interim status, and lists of hazardous wastes. These amendments are required by federal rules, except for the following more stringent citations which have no federal equivalent: LAC 33:V.305, 2305, 2521.C, 2905, 2911.E, and 3913. These more stringent citations are presently in existence; however, amendments are being made for clarification purposes as suggested by the EPA. This action is required by EPA for the purpose of Louisiana obtaining HSWA (Hazardous and Solid Waste Amendments) authorization.

This regulation is available through the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802 and also 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 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street,

Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

9409#032

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Solid Waste Division**

Certified Operators for Type II Solid Waste Disposal and Processing Facilities (LAC 33:VII.721-725) (SW12)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary hereby amends the Solid Waste Division Regulations, LAC 33:VII.Chapter 7.Subchapter D, (SW12).

At the present time Type I and II solid waste disposal and processing facilities are required to have operators certified in accordance with the Louisiana Administrative Code, Title 46, Part XXIII. These regulations will require Type III (construction and demolition, woodwaste, composting, separation sites) solid waste facilities receiving residential or commercial solid waste to have the correct number and levels of certified operators as required by the LAC, Title 46, Part XXIII.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 7. Solid Waste Standards

Subchapter D. Minor Processing and Disposal Facilities

§721. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities (Type III)

* * *

[See Prior Text in A - B.2]

3. Type III facilities receiving construction and demolition debris and woodwaste shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Solid Waste Division shall be notified within 30 days of any changes in the employment status of certified operators.

a. The requirements of LAC 33:VII.721.B.3 are not applicable to facilities meeting the criteria of LAC 33:VII.305.D.

* * *

[See Prior Text in C - E.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20: (September 1994).

§723. Composting Facilities (Type III)

* * *

[See Prior Text in A - B.2]

3. Type III facilities receiving solid waste for composting shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Solid Waste Division shall be notified within 30 days of any changes in the employment status of certified operators.

* * *

[See Prior Text in C - D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20: (September 1994).

§725. Separation Facilities (Type III)

* * *

[See Prior Text in A - B.2]

3. Type III facilities receiving solid waste for separation shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Solid Waste Division shall be notified within 30 days of any changes in the employment status of certified operators.

* * *

[See Prior Text in C - D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20: (September 1994).

James B. Thompson, III
Assistant Secretary

9409#034

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Solid Waste Division**

Waste Tires (LAC 33:VII.Chapter 105) (SW11)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2301 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S.

49:950 et seq., the secretary hereby amends the Solid Waste Division regulations, LAC 33:VII.Subpart 2 (Log SW11).

These amended rules provide mechanisms to handle the depositing of currently generated waste tires and to facilitate the cleanup of abandoned waste-tire sites. These amended rules provide new and expanded definitions, and entire sections have been added to provide for implementation of cleanup programs. Act 664 (R.S. 30:2418) requires the department to promulgate rules and regulations to administer and enforce the Waste Tire Program, including providing incentives for the collection and transportation of waste tires, remediating environmental and health problems, and establishing a priority system for the cleanup of existing waste tire piles. Under these proposed changes, the department will be responsible for all disbursements of the waste tire fee.

This regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA and 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; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

9409#033

RULE

Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

Reciprocity (LAC 46:XLIX.1107)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Examiners of Nursing Facility Administrators has amended rules relative to licensing and regulating nursing facility administrators.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 11. Licenses

§1107. Reciprocity

A.-B. ...

C. A temporary license for a period not to exceed three months may be issued to a fully qualified reciprocity applicant upon payment of a registration fee determined by the board.

D. The board shall also have power after due notice and an opportunity to be heard at a formal hearing, to revoke or suspend the endorsement of a nursing home administrator license issued to such person by such state.

E. The action of the board in revoking or suspending such license or registration shall be reviewable by the court under

and pursuant to the provisions of law provided for in such cases.

F. A Louisiana licensee who applies for reciprocity in another state must pay a \$25 fee to the board to cover costs of completing and mailing necessary forms to the other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2508.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:1024 (August 1993), amended LR 20: (September 1994).

Van Weems
Executive Director

9409#008

RULE

Department of Health and Hospitals Board of Massage Therapy

Operating Rules (LAC 46:XLV.Chapters 1-63)

The Department of Health and Hospitals, Board of Massage Therapy, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts rules relating to the practice of massage therapy.

The full text of the rules may be viewed at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA. Please reference document 9409#058 when requesting these rules.

Mary L. Donker
Chair

9409#058

RULE

Department of Health and Hospitals Board of Medical Examiners

Occupational Therapists Continuing Education Credits (LAC 46:XLV.1947-1979)

The State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3012(B) and 37:1270(B)(6), and in accordance with applicable provisions of the Administrative Procedure Act, has amended its rules governing the licensure of occupational therapists and occupational therapy assistants to implement and provide for the requirement of continuing education as a condition of annual renewal of licensure, as prescribed by Act 566 of 1993, LAC 46:XLV, Subpart 2, Chapter 19, §§1901-1979. The rule amendments were proposed by notice of intent published in the February, 1994 *Louisiana Register*, pages

219-223. In consideration of public comments on the rules, the board has modified the proposed rule amendments in several limited respects. The text of the final rule amendments, as adopted by the board, is set forth below.

Sections 1947, 1949, 1957, 1959, and 1961 of Chapter 19 of Part XLV of Title 46 of the Louisiana Administrative Code are hereby amended, and Sections 1963-1979 are hereby adopted, so that, as amended and adopted said Sections shall read and provide as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Chapter 19. Occupational Therapists and Occupational Therapy Assistants

Subchapter F. License Issuance, Termination, Renewal Reinstatement

§1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 81 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license on or before the first day of December of each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

C. The renewal of a license which has expired for 60 days or less may be renewed by submitting to the board an application for renewal upon forms supplied by the board together with the late renewal fee prescribed in Chapter 81 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:30013014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners LR 20: (September 1994).

§1949. Reinstatement of License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation, one from a reputable physician and one from a reputable OTR of the former licensee's last professional location, together with the applicable late renewal and reinstatement fees prescribed in Chapter 81 of these rules.

C. Reinstatement of a license that has expired for two years or more may include additional fees and requirements as the board deems appropriate, including but not limited to reexamination in accordance with Subchapter D, satisfaction of the requirements of Subchapter H with respect to continuing professional education, and/or complying with all requirements and procedures for obtaining an original license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:30013014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

Subchapter G. Occupational Therapy Advisory Committee

§1957. Constitution of Committee

To assist the board in the review of applicants' qualifications for licensure and renewal of licensure under this Chapter, the board shall constitute and appoint an Occupational Therapy Advisory Committee (advisory committee) which shall be organized and shall function in accordance with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:30013014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1959. Composition; Appointment

A. The advisory committee shall comprise nine members who shall be occupational therapists licensed by the board and practicing and residing within the state of Louisiana, consisting, more particularly, of one licensed occupational therapist proficient in and representing each of the following areas of occupational therapy practice:

1. administration and management;
2. developmental disabilities;
3. education;
4. gerontology;
5. mental health;
6. physical disabilities;
7. sensory integration
8. technology; and
9. work programs.

B. Insofar as possible or practical, in its appointment of members to the advisory committee, the board shall maintain geographic diversity so as to provide membership on the advisory committee by occupational therapists residing and practicing in North, Central, Southwestern and Southeastern Louisiana.

C. Of the board's initial appointment of members to the advisory committee following the effective date of these rules, four appointees shall be designated to serve terms expiring on the last day of the year of appointment and five to serve terms expiring on the last day of the year succeeding the year of appointment. Thereafter, each member of the advisory committee shall serve a term of two years, subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee by the board to fill a vacancy occurring on the advisory committee other than by expiration of the designated term shall serve for the unexpired term. A member of the advisory committee may be appointed by the board for not more than three consecutive terms. Other than the initial appointments provided for herein, board appointments to the advisory committee shall be effective when

made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:30013014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1961. Delegated Duties and Responsibilities

A. The advisory committee is authorized by the board to:

1. advise and assist the board in the ongoing evaluation of the occupational therapy licensing examination required by the board;

2. assist the board in examining the qualifications and credentials of and interviewing applicants for occupational therapy licensure and make recommendations thereon to the board;

3. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards, policies and procedures respecting occupational therapy licensure and practice;

4. serve as a liaison between and among the board, licensed occupational therapists and occupational therapy assistants, and occupational therapy professional associations;

5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board; and

6. advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Subchapter H of these rules, including the authority and responsibility to:

a. evaluate organizations and entities providing or offering to provide continuing professional education programs for occupational therapists and occupational therapy assistants and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §1969 of these rules;

b. review documentation of continuing professional education by occupational therapist and occupational therapy assistants, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

c. request and obtain from applicants for renewal of licensure such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

B. In discharging the functions authorized under this Section the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the advisory committee members pursuant to §1961.A.2 and

6 shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:30013014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

Subchapter H. Continuing Professional Education

§1963. Scope of Subchapter

The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as an occupational therapist or occupational therapy assistant, as required by §§1947 and 1965 of these rules, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1965. Continuing Professional Education Requirement

A. Subject to the exceptions specified in §1979 of this Subchapter, to be eligible for renewal of licensure for 1996 and thereafter, an occupational therapist or occupational therapy assistant shall, within each year during which he holds licensure, evidence and document, upon forms supplied by the board, successful completion of not less than 15 contact hours, or 1.5 continuing education units (CEUs).

B. One continuing Education Unit (CEU) constitutes 10 hours of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter; one continuing professional education hour is equal to one-tenth (0.1) of a CEU. Fifteen hours, or 1.5 CEUs, is required to meet the standards prescribed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1967. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualified continuing professional education under these rules a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of occupational therapy;

2. have preestablished written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of occupational therapy;

3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the

subject matter of the presentation;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of one continuous hour in length.

B. None of the following programs, seminars, or activities shall be deemed to qualify as acceptable CPE programs under these rules:

1. any program not meeting the standards prescribed by Subsection A of this Section;

2. independent study not approved or sponsored by the American Occupational Therapy Association (AOTA) or the Louisiana Occupational Therapy Association, Inc. (LOTA) for the Independent Study Program;

3. any program, presentation, seminar or course of instruction not providing the participant an opportunity to ask questions or seek clarification of specific matters presented;

4. teaching, training or supervisory activities;

5. holding office in professional or governmental organizations, agencies or committees;

6. participation in case conferences, informal presentations, or inservice activities;

7. giving or authorizing verbal or written presentations, seminars, articles, or grant applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1969. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §1967.A sponsored or offered by the American Occupational Therapy Association or the Louisiana Occupational Therapy Association, Inc. shall be presumptively deemed approved by the board for purposes of qualifying as an approved continuing professional education program under these rules.

B. Upon the recommendation of the advisory committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §1967.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1971. Approval of Programs

A. A continuing professional education program sponsored by an organization or entity not deemed approved by the board pursuant to §1969.A may be preapproved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this Subchapter upon written request to the board therefor, upon a form supplied by the board, providing a complete description of the nature, location, date, content and purpose of such program and such other information as the board or the advisory committee may request to establish the compliance of such program with the standards prescribed by §1967.A. Any such request for preapproval respecting a program which makes and

collects a charge for attendance shall be accompanied by a nonrefundable processing fee of \$30.

B. Any such written request shall be referred by the board to the advisory committee for its recommendation. If the advisory committee's recommendation is against approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting preapproval of continuing professional education programs should allow not less than 60 days for such requests to be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1973. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be mailed by the board to each occupational therapist and occupational therapy assistant subject to such requirements with the application for renewal of licensure form mailed by the board pursuant to §1947.B of these rules. Such form shall be completed and delivered to the board with the licensee's renewal application.

B. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or preapproved by the board in writing, shall be referred to the advisory committee for its evaluation and recommendations pursuant to §1961.A.6.ii. If the advisory committee determines that a program or activity certified by an applicant for renewal in satisfaction of continuing professional education requirements does not qualify for recognition by the board or does not qualify for the number of CEUs claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1975. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within such 60 days furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;

2. the applicant is exempt from such requirements pursuant to these rules; or

3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness or other good cause as may be determined by the board.

B. The license of an occupational therapist or occupational therapy assistant whose license has expired by nonrenewal or been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50, together with documentation and certification that:

1. the applicant has, during each calendar year since the date on which the applicant's license lapsed, expired or was revoked, completed 12 contact hours (1.2 CEUs) of qualifying continuing professional education, and the following additional continuing professional education, as applicable:

a. if the application for reinstatement is made more than one year and less than three years following the date on which such license lapsed, expired or was revoked, the applicant shall evidence completion of and additional six contact hours (.6 CEU) of qualifying continuing professional education since the date on which the applicant's license lapsed, expired or was revoked.

b. if the application for reinstatement is made more than three years and less than five years following the date on which such license lapsed, expired or was revoked, the applicant shall evidence completion of and additional eight contact hours (0.8 CEU) of qualifying continuing professional education within the 12 months period preceding application for reinstatement.

c. if the application for reinstatement is made more than five years following the date on which such license lapsed, expired or was revoked, the applicant shall evidence completion of an additional 10 contact hours (1.0 CEU) of qualifying continuing professional education within the 12 months period preceding application for reinstatement; or

2. the applicant has, within one year prior to making application for reinstatement, taken and successfully passed the Recertification Examination of the American Occupational Therapy Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1977. Waiver of Requirements

The board may, in its discretion and upon the recommendation of the advisory committee, waive all or part of the continuing professional education required by these rules in favor of an occupational therapist or occupational therapy assistant who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the

individual's satisfaction of the continuing professional education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

§1979. Exceptions to Continuing Professional Education Requirements

The continuing professional education requirements prescribed by this Subchapter as requisite to renewal of licensure shall not be applicable to:

1. an occupational therapist or occupational therapy assistant employed exclusively by, or at an institution operated by, any department or agency of the State of Louisiana; or

2. an occupational therapist or occupational therapy assistant who has held an initial Louisiana license on the basis of examination for a period of less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (September 1994).

Delmar Rorison
Executive Director

9409#025

RULE

Department of Health and Hospitals Office of the Secretary Office of Mental Health

Adults with Serious Mental Illness,
Children/Youth with Behavioral/Emotional Disorders

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health are adopting the following rule under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health are adopting this rule to redefine the populations of chronically mentally ill adults and seriously emotionally disturbed children, as adults with serious mental illness and children/youth with emotional/behavioral disorders. The rule establishes a clear, standardized definition for this population. Both the Medicaid targeted case management program and the Mental Health Rehabilitation Services program, established in previous Medicaid rule, provide for eligibility for chronically mentally ill adults and seriously emotionally disturbed children as "defined by the Office of Mental Health." The rule will provide standardized criteria for medical eligibility for these two Medicaid programs.

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health are adopting a standardized definition for adults with serious mental illness.

Adults must meet all of the following criteria for A, B, C and D for serious mental illness (SMI):

A. Age: 18 years or older; and

B. Diagnosis: severe nonorganic mental illnesses including, but not limited to schizophrenia, schizoaffective disorders, mood disorders, and severe personality disorders, that substantially interfere with a person's ability to carry out such primary aspects of daily living as self-care, household management, interpersonal relationships and work or school; and

C. Disability: impaired role functioning, caused by mental illness, as indicated by at least two of the following functional areas: Unemployed or has markedly limited skills and a poor work history, or if retired, is unable to engage in normal activities to manage income; employed in a sheltered setting; requires public financial assistance for out-of-hospital maintenance (i.e., SSI, and/or is unable to procure such without help, does not apply to regular retirement benefits); severely lacks social support systems in the natural environment, (i.e., no close friends or group affiliations, lives alone, or is highly transient); requires assistance in basic life skills, (i.e., must be reminded to take medicine, must have transportation arranged for them, needs assistance in household management tasks); exhibits social behavior which results in demand for intervention by the mental and/or judicial/legal system; and

D. Duration: must meet at least one of the following indicators of duration: Psychiatric hospitalizations of at least six months in the last five years (cumulative total); two or more hospitalizations for mental disorders in the last 12-month period; a single episode of continuous structural supportive residential care other than hospitalization for a duration of at least six months; a previous psychiatric evaluation indicating a history of treatment for severe psychiatric disability of at least six months duration.

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health are adopting a standardized definition for children/youth with emotional/behavioral disorders as follows: behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance (including academic, social, vocational or personal skills); a disability which is more than a temporary, expected response to stressful events in the environment, is consistently exhibited in two different settings and persists despite individualized intervention within general education and other settings. Emotional and behavioral disorders can coexist with other disabilities.

The following criteria are being established for children/youth with emotional/behavioral disorders and require that sections A, B, C, and D described below, be met before someone can be described as having an emotional/behavioral disorder.

However, for the purposes of medical eligibility for the optional Medicaid programs, there must be a diagnosis as contained in section B.4 below, and, a disability as described in section C, and, a duration of impairment or patterns of inappropriate behavior which has persisted for at least three months and will persist for at least a year. (The criteria for

duration described in Section D does not apply to eligibility for optional Medicaid programs.)

A. Age: under age 18; and

B. Diagnosis: meets one of the following criteria which operationalize the above definition:

1. exhibit seriously impaired contact with reality, and severely impaired social, academic, and self-care functioning, whose thinking is frequently confused, whose behavior may be grossly inappropriate and bizarre, and whose emotional reactions are frequently inappropriate to the situation; or,

2. manifest long-term patterns of inappropriate behaviors, which may include but are not limited to aggressiveness, anti-social acts, refusal to accept adult requests or rules, suicidal behavior, developmentally inappropriate inattention, hyperactivity, or impulsiveness; or

3. experience serious discomfort from anxiety, depression, or irrational fears and concerns whose symptoms may include but are not limited to serious eating and/or sleeping disturbances, extreme sadness, suicidal ideation, persistent refusal to attend school or excessive avoidance of unfamiliar people, maladaptive dependence on parents, or nonorganic failure to thrive; or

4. have a DSM-III-R (or successor) diagnosis indicating a severe mental disorder, such as, but not limited to psychosis, schizophrenia, major affective disorders, reactive attachment disorder of infancy or early childhood (nonorganic failure to thrive) or severe conduct disorder. This category does not include children/youth who are socially maladjusted unless it is determined that they also meet the criteria for emotional/behavior disorders; and

C. Disability: there is evidence of severe, disruptive and/or incapacitating functional limitations of behavior characterized by at least two of the following: inability to routinely exhibit appropriate behavior under normal circumstances; tendency to develop physical symptoms or fears associated with personal or school problems; inability to learn or work that cannot be explained by intellectual, sensory, or health factors; inability to build or maintain satisfactory interpersonal relationships with peers and adults; a general pervasive mood of unhappiness or depression; conduct characterized by lack of behavioral control or adherence to social norms which is secondary to an emotional disorder. If all other criteria are met, then "conduct disorders" are eligible; and

D. Duration: the impairment or pattern of inappropriate behavior(s) has persisted for at least one year or there is substantial risk that the impairment or pattern of inappropriate behavior(s) will persist for an extended period or there is a pattern of inappropriate behaviors that are severe and of short duration.

Rose V. Forrest
Secretary

9409#057

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Mandatory Disinfection of Water Supplies (Chapter XII)

In accordance with the provisions of R.S. 40:5 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health hereby amends Chapter XII (Water Supplies) of the *Sanitary Code, State of Louisiana*, to require mandatory disinfection for all public water supplies except for those specifically exempted and/or those currently providing disinfection as required under the Federal Safe Drinking Water Act and subsequent Louisiana Total Coliform Rule. The existing provisions of §§12:021-1 to 12:021-4 are replaced with the following language:

Chapter XII. Water Supplies

Delete current §§12:021-1 through 12:021-4 and replace with the following:

12:021-1 Mandatory Disinfection:

Routine, continuous disinfection is required of all public water systems other than those under Section 12:021-4 of these regulations. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

pH Value	Free Chlorine Residual
up to 7.0	0.4 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

THIS TABLE DOES NOT APPLY TO SYSTEMS USING CHLORAMINES.

All new groundwater systems installed after the effective date of these regulations shall provide at least 30 minutes contact time prior to the first customer. It is recommended that all existing systems provide the 30 minutes contact time prior to the first customer. Additions to or extensions of existing systems are exempt from the 30 minutes contact time.

Systems which use surface water or ground water which is under the influence of surface water shall meet the requirements of applicable sections of the Louisiana Surface Water Treatment Rule as it pertains to CT and Giardia and virus requirements for disinfection.

The effective date for all public water supplies serving a population of greater than 500 shall be July 1, 1995.

The effective date of mandatory disinfection for all public water supplies serving a population of 500 or less shall be July 1, 1996.

12:021-2 Minimum Disinfection Residuals:

A minimum disinfectant residual of detectable amount of total chlorine shall be maintained at all points throughout the distribution system at all times for chlorination methods other than chloramines. For very small water systems a residual of 0.2 mg/l free chlorine is generally required to maintain said systems.

12:021-3 Other Methods of Disinfection:

Where chlorination is not used as the primary disinfectant, chlorine or chloramines shall be used as the secondary

disinfectant to provide the residuals required in 12:021-2. Other methods shall be evaluated on a case-by-case basis by the state health officer.

12:021-4 Variances to Mandatory Disinfection:

A variance may be granted by the state health officer to a public water system, provided the system meets one of the following criteria:

(a) If the public water system has not had a bacteriological maximum contaminant level (MCL) violation for the past three years;

(b) If the public water system, both existing and future installations, can prove that disinfection would create trihalomethane (THM) levels of 0.10 milligrams per liter or greater. The public water supply should explore alternate means of disinfection prior to requesting a variance. A variance can be granted for such systems, provided the system has the required equipment to verify that a detectable amount of chlorine residual is maintained at all times. For systems under 10,000 population served, said systems shall have 90 days after a TTHM (Total Trihalomethane) exceedance of 0.100 milligrams per liter is determined to request said variance;

(c) A variance shall be granted to a public water supply owned by and/or operated by, and/or created as a political subdivision in accordance with Article 6 Section 14 of the Constitution of the State of Louisiana;

(d) In reference to (a), (b), and (c) above, on a case-by-case basis, when a bacteriological MCL occurs and an administrative order shall be or has been issued to that particular water system, the said water system shall be subject to the orders of the state health officer to take whatever remedial actions are deemed necessary to comply with all applicable rules, regulations, standards, and the *Louisiana Sanitary Code*, including, but not limited to, the Louisiana Total Coliform Rule.

12:021-4.1

Variances must be requested in writing and must be approved prior to the effective date of the mandatory disinfection requirement as prescribed in Section 12:021-1 except the new conditions that arise in Section 12:021-4(b).

12:021-5 Revocation of Variance:

A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system must install mandatory continuous disinfection as stated in Section 12:021-2 within the times specified in a compliance schedule submitted to and approved by state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation. For systems affected under 12:021-4(b), revocations because of a bacteriological MCL shall be evaluated on a case-by-case basis by the state health officer.

12:021-6 Batch Disinfection:

State health officer may allow batch disinfection for emergency purposes. Batch disinfection shall not be considered a method of continuous disinfection.

12:021-7 Records:

Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved

by the state health officer and shall be retained for a period of two years.

* * *

Rose V. Forrest
Secretary

9409#056

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Sewage Installation Licenses (Chapter XIII)

Under the authority of R.S. 40:4 and 40:5, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Chapter XIII of the State Sanitary Code as it relates to the licensing procedures for installers of individual sewage systems.

Chapter XIII Sewage Disposal

* * *

13:014-1

Any person who wishes to engage in the business of installing or providing maintenance of individual sewage systems shall obtain, in accordance with the procedures set forth in Section 13:023 of this Chapter, a license for such activity prior to making any such installations or maintenance. Such a license shall not be required, however, for an individual wishing to install an individual sewage system, other than an individual mechanical plant, for his own private, personal use. Individual mechanical plants shall be installed and maintenance provided by licensed individual sewage system installers and/or maintenance providers only.

13:014-2

A person installing or providing maintenance of an individual sewage system and the person who is the owner of the premises shall both be responsible for violations of Sections 13:012 and 13:013.

* * *

Licensing Procedures for Installers and/or Maintenance Providers of Individual Sewage Systems

13:023-1 License Types

Two "types" of licenses are offered; 1) a "basic" license for installation and maintenance of facilities other than individual mechanical plants only, and 2) a mechanical "endorsement" to the basic license to allow installation and maintenance of individual mechanical plants as well. A mechanical plant "endorsement" may be obtained only in conjunction with a basic license, and is considered to be a separate license.

13:023-2 Application

Applications (including all required certifications and request for examination) for an "Individual Sewage System Installer and/Or Maintenance Provider" license may be obtained from the nearest parish health unit. Applications must be submitted to the Chief Sanitarian, Sanitarian Services Section, P.O. Box

60630, New Orleans, LA 70160. All licenses shall be issued by this office upon successful completion of the required examination(s), and shall be valid throughout the entire state.

13:023-3 Qualifications

A. For a "basic" license, the applicant shall submit, along with the license application and request for examination, an affidavit certifying that he has obtained, read, and understands the provisions of this Chapter of the Sanitary Code, including Appendix A thereto, and will make installations and/or provide maintenance in compliance therewith. Copies of a standard affidavit form and request for examination form may be obtained from any parish health unit. For an individual mechanical plant "endorsement" the applicant shall submit, along with the license application and request for examination, a certification from the manufacturer of the brand of plant he wishes to install and/or maintain, specifying that this specifically named installer and/or maintenance provider (person) is certified by said manufacturer as competent and capable of installing and/or maintaining said plants properly, and in compliance with the requirements of the manufacturer and this code. New applications will not be processed unless accompanied by the required certification information and request for examination.

B. All persons seeking to apply for a new or renewal license for 1995 and thereafter, must, at their own expense, attend and successfully complete, a training course approved by the Sanitarian Services Section of the Office of Public Health, Department of Health and Hospitals as a prerequisite for licensure. This course will be offered at least once annually.

C. All licensees must successfully repeat this training course every five years.

D. A listing of training course dates, times and locations will be maintained in the various sanitarian regional managers offices and periodically updated.

E. In the event the annual training course is not available for more than 60 days, the sanitarian regional manager may issue a temporary license provided the applicant meets all of the other requirements cited in this section and attends a seminar and passes an examination administered by the sanitarian regional manager. This temporary license shall terminate 60 days after the next available annual training course.

13:023-4 Examination

Upon compliance with all qualification requirements, the applicant will be scheduled for the appropriate examination(s). Examinations will be administered as necessary by the Office of Public Health. Upon the satisfactory completion of the examination (with a passing grade of 70 percent or greater), the Office of Public Health will issue a license.

13:023-5 Renewal

All licenses expire on January 31 of each new year. Applications for renewal should be received at the office of the chief sanitarian no later than December 1 of each year in order to insure timely renewal.

13:023-6 Suspension or Revocation of License

Upon determination by the state health officer of substantial noncompliance with the requirements of this Code of any installation or maintenance made subsequent to the effective

date of these regulations, notice shall be given to the licensee having made said noncompliant installation or maintenance that his license has been temporarily "suspended" pending a hearing in the matter to consider whether sufficient grounds for revocation of the license exist. The licensee shall be notified of the date of the hearing within seven working days from the date of the "Notice of Suspension." The date for such hearing shall be set within 15 working days of the date of the "Notice of Suspension."

13:023-7 Reinstatement of License

Upon revocation of a license, an installer or maintenance provider shall not be eligible to reapply for the same license or apply for a new license for a period of two years from the date of revocation.

* * *

Rose V. Forrest
Secretary

9407#054

RULE

Department of Health and Hospitals Office of the Secretary HIV Program Office

Home Based Care Program (LAC 48:I.Chapter 137)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Health and Hospitals, Bureau of Health Resources Management, HIV Program Office is amending the Home Based Care Program to read as follows:

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 7. HIV/AIDS

Chapter 137. Home Based Care

§13701. Definitions

When used in this Subpart, unless expressly stated otherwise or unless the context of subject matter requires a different interpretation:

Department—the Louisiana Department of Health and Hospitals.

Home Based Care—medical, hospice, and support services provided in the client's home by a licensed Home Health Care or Hospice agency.

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

Program—the home based care program for HIV infected persons.

Service Agency or Agency—the licensed home health or hospice agency which has a contract to provide services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13701. Covered Services

A. All services provided under this program are to be performed in the home for HIV infected clients at a physician's order. Visits are limited to a maximum of once a day unless otherwise indicated.

B. Home Based Care

1. Skilled nursing including but not limited to:

- a. medication preparation, administration, and monitoring;
- b. care of peripheral and central access devices;
- c. insertion, irrigation and maintenance of foley catheters;
- d. complex wound care and dressing changes;
- e. oxygen therapy and monitoring and other respiratory therapy;
- f. venipuncture for laboratory studies;
- g. client/significant other education:
 - i. medications and adverse effects;
 - ii. diet;
 - iii. self care;
 - iv. disease process;
 - v. treatments;
 - vi. custodial care;
 - vii. infection control procedures.
- h. aerosolized pentamidine treatments (IM pentamidine is not covered by this program);
 - i. palliative care focusing on pain relief and symptom control.

2. Home health aides (maximum of five visits per week) to assist with activities of daily living.

3. Supplies, durable medical equipment rental.

4. Medications at a maximum of 30 percent above cost. IV therapy needed more than once a day up to three times a day can be covered for up to eight weeks. Daily IV therapy can continue for the duration of the home based care. Medications covered are those provided under the Level 1, 2, or 3 state formularies or a formulary approved by the department through the LHCA HIV Ambulatory Care Sites.

5. Physical therapy.

6. Social worker services (maximum of two visits a week).

7. Routine diagnostic tests.

8. Nutritional therapy following the *Louisiana Medicaid Guidelines* including supplements at a maximum of 30 percent above cost. (Physician order need not specify enteral via tube for this program). Total parenteral nutrition is not covered by this program.

C. Hospice Care

1. Skilled nursing services. Palliative care including but not limited to:

- a. medication preparation, administration, and monitoring;
- b. care of peripheral and central access devices;
- c. insertion, irrigation and maintenance of foley catheters;
- d. complex wound care and dressing changes;
- e. oxygen therapy and monitoring and other respiratory therapy;

f. venipuncture for laboratory studies related to palliative care;

g. client/significant other education:

- i. medications;
- ii. comfort measures;
- iii. self-care;
- iv. disease process;
- v. treatments;
- vi. custodial care;
- vii. infection control procedures;
- viii. end stage care planning (anticipated signs and symptoms of approaching death);
- h. palliative care focusing on pain relief and symptom control;
- i. support for client, family, and significant others.

2. Home health aides (maximum of five visits per week) to assist with activities of daily living.

3. Supplies, durable medical equipment rental.

4. Medications at a maximum of 30 percent above cost. IV therapy needed more than once a day up to three times a day can be covered for up to eight weeks. Daily IV therapy can continue for the duration of the hospice care. Medications covered are those provided under Level 1, 2, or 3 State Formularies or a formulary approved by the department through the LHCA HIV Ambulatory Care Sites.

5. Social worker services (maximum of two visits per week).

6. Pastoral care.

7. Bereavement follow-up for significant others and family members.

8. Trained volunteers to provide support to the client and family through tasks such as shopping, sitting, running errands, preparing meals, and listening.

NOTE: 6, 7, and 8 are not reimbursable services.

D. Personal Care Attendant Services. Personal care attendants to provide services including light housework, grocery shopping, and cooking (maximum of five visits per week and 160 hours per client per twelve month period). Clients may be eligible for an additional 320 hours if they meet one of the following criteria:

1. patients currently receiving care from a licensed hospice agency;
2. prognosis of less than one month as determined by the primary care physician;
3. nursing home or residential care facility placement is not feasible within 30 days.

NOTE: Each agency would be strictly controlled in the use of the extension. The referral must come from the client's primary care physician and must meet one of the guidelines above. Approvals would be granted on a case-by-case basis for up to four weeks at a time. Authority for approvals would rest with the HIV Program Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13705. Client Eligibility

A. Client must be HIV infected and require medical and/or nursing intervention.

B. Client desires home based care as determined and documented by the social worker/case manager, and client's primary care physician.

C. Service is not covered by any other third-party coverage. This program should be used when all other sources of payment for home based care have been exhausted. This program will supplement gaps in existing third-party coverage for services listed including covering beyond the amount and frequency covered by medicaid.

D. Client must have a household income less than 200 percent of the federal poverty guidelines updated annually and available resources less than \$4,000 based on Medicaid guidelines.

E. Client must have a physician who will provide orders in writing or verbally to the agency prior to the initiation of care, act as that client's primary care physician, maintain a consistent plan, and communicate changes from the initial plan directly to the agency or the physician must be willing to transfer the client to the care of the agency physician. If verbal orders are given to the agency, written orders must follow within 48 hours.

F. Client is certified by the agency and the client's physician as not being in need of acute care.

G. Client's physician or physician's associates are available 24 hours a day by phone or beeper or agrees that the home based care agency may refer the client to an emergency room for problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13707. Agency Requirements

A. Agency is licensed home health care or hospice provider.

B. Agency will confirm client's eligibility for the program as stated above before the initiation of care. If an agency initiates care prior to eligibility confirmation, it will be financially responsible for care for clients who are found to be ineligible for home based care assistance.

C. The home care nurse must obtain a clinical status report and home care orders from the physician for the referred client prior to beginning care, will conduct a first visit with the client and will develop a written plan of care. Progress notes will be kept and the client will be recertified for home based care and the plan of care updated at least every 60 days. The home based care nurse will maintain ongoing communication with the physician and case manager in compliance with Medicaid and Medicare Guidelines.

D. Home care will begin within 24 hours of discharge from inpatient setting or referral from physician unless otherwise specified.

E. Nurse will be available for consultation on a 24 hour, seven day a week basis.

F. Agency will participate in the Ryan White Consortium for the region to which they provide care and have a representative present at a minimum of 50 percent of the monthly consortium meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13709. Application Guidelines

A client can be recommended for home based care services by the physician, nurse, social worker, or case manager involved with the client's care. Client's eligibility must be verified by the service agency and verification provided to the department. Written orders for home based care services must be provided by the client's physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13711. Termination

Eligibility for services under this program will be terminated if the client:

1. subsequently is determined to have a household income greater than 200 percent of the federal poverty line;
2. subsequently is determined to have assets of greater than \$4,000;
3. is not stable enough to be cared for outside of the acute care setting as determined by the agency or the client's physician;
4. moves from Louisiana;
5. no longer has a stable home environment appropriate for the provision of home based care as determined by the agency or the case manager;
6. no longer desires home based care;
7. no longer medically requires home based care as determined by the agency or the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13713. Reporting Requirements

Agencies will submit invoices for services provided as required. Agencies will provide individual client service utilization reports as required under the Ryan White Uniform Reporting System. All eligibility forms and the signed plan of treatment are to be submitted within 48 hours of a referral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13715. Fair Hearing

Persons requesting and denied services under this program are entitled to request a conference and/or fair hearing to review the decision of the service agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13717. Payment for Services

Payment for home based care services delivered under this program will be made directly to the service agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13719. Confidentiality

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

§13721. Forms

The Department of Health and Hospitals, Office of Management and Finance, HIV Program Office has developed example forms that can be used in this program. These include client eligibility checklist and release of medical information form. In addition, a client service utilization report. While the specific forms do not need to be used, the information contained on the forms must be collected and provided to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:256 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Resources Management, LR 20: (September 1994).

Rose V. Forrest
Secretary

9409#059

RULE

Department of Insurance Commissioner of Insurance

Regulation 53—Basic Health Insurance Plan Pilot Program

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 22:247, the commissioner of insurance hereby adopts Regulation 53. This regulation provides for the implementation of the Louisiana Basic Health Insurance Plan Pilot Program.

Regulation 53

LA Health - Louisiana Basic Health Insurance Plan Pilot Program

Section 1. Purposes

The purpose of this regulation is to provide for the implementation of the Louisiana Basic Health Insurance Plan Pilot Program (LA Health); and to provide for related matters.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner under the Administrative Procedure Act and R.S. 22:244-247 of the Insurance Code.

Section 3. Applicability and Scope

These regulations shall apply to all insurance carriers, health maintenance organizations, employers, health care providers and individuals that apply to cover or to be covered by the Louisiana Basic Health Insurance Pilot Program (LA Health).

Section 4. Definitions

For purposes of this regulation, the Louisiana Basic Health Insurance Plan Pilot Program is to be referred to as LA Health.

For purposes of this regulation:

A. *Accidental Injury*—means bodily injury sustained as the result of an unforeseen event and which is the direct reason for receiving care and treatment (independent of disease, bodily infirmity or any other cause). Such care shall occur while coverage under the pilot is in force. It does not include injuries for which benefits are provided under any workers' compensation, employers' liability or for which another party is liable under automobile, property and casualty, and other coverage.

B. *Admission*—begins the first day an insured becomes a registered hospital inpatient and continues until insured is discharged from the facility.

C. *Adult*—is an individual who is greater than 24 but less than 65 years of age.

D. *Agent*—is an individual appointed in writing by an insurer to solicit applications for a policy of insurance or to negotiate a policy of insurance on its behalf licensed in accordance with R.S.22:1112.

E. *Applicant*—is an individual who applies for coverage under the LA Health plan.

F. *Authorized Carrier*—the health insurance carrier or health maintenance organization licensed and in compliance with the Insurance Code certified by the department to offer the LA Health plan.

G. *Benefit Payment*—the amount the authorized carrier will pay for covered services. See Sections 15-18 of this Regulation.

H. *Benefit Period*—one year, also referred to as *year* or *calendar year*. The benefit period does not begin before the insured's effective date. The benefit period does not continue after the insured's coverage ends.

I. *Clinic*—a facility for the diagnosis, care and treatment of outpatients.

J. *Commissioner*—the commissioner of insurance.

K. *Copayment*—the cost-sharing fee charged to an insured under LA Health as specified in the contract between the authorized carrier for LA Health and the insured.

L. *Department*—the Department of Insurance.

M. *Dependent*—

1. the spouse and all unmarried children under the age of 24;

2. children include natural children, legally adopted children and step-children. Also included are children (or children of a spouse) for whom an insured has legal responsibility resulting from a valid court decree. Foster children that an insured expects to raise to adulthood and that live with an insured in a regular parent-child relationship are considered children;

3. students who are unmarried children who have not yet attained the age of 24 and who are enrolled as full-time students and who are dependent upon the primary insured;

4. mentally retarded or physically handicapped children remain covered to age 21 at which time they are eligible for their own individual coverage;

5. a child's coverage ends when any of the following occurs:

a. marriage or attaining age 21 (whichever comes first);

b. termination of a an insured's coverage under the LA Health plan; or

c. if a child over age 21 no longer qualifies as a full-time student.

N. *Effective Date*—the date an applicant becomes eligible for coverage under an authorized carrier for the LA Health plan.

O. *Hospital*—an institution, licensed by the state, which:

1. provides inpatient services and is compensated by or on behalf of its patients;

2. primarily provides medical and surgical facilities to diagnose, treat and care for the injured or sick;

3. has a staff of physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners;

4. provides nursing care by registered nurses or licensed practical nurses on duty 24-hours-a-day.

NOTE: The term *hospital* does NOT mean:

1. an extended care facility, nursing home, community based care, or group home;

2. a place of rest;

3. a facility for the aged;

4. a custodial institution whose primary purpose is to furnish food, shelter, training, or unskilled or nonmedical services; or

5. an institution for exceptional or handicapped children.

P. *Insured*—an individual domiciled in this state who is eligible to receive benefits from an authorized carrier under the LA Health plan.

Q. *Mental and Nervous Disorders*—includes (whether organic or nonorganic, whether of biological, nonbiological, genetic, chemical, or nonchemical origin, and irrespective of cause, basis or inducement) mental disorders, mental illnesses, psychiatric illnesses, mental conditions and psychiatric conditions. This includes, but is not limited to, psychoses, neurotic disorders, schizophrenic disorders, affective disorders, personality disorders and psychological or behavioral abnormalities associated with transient or permanent dysfunction of the brain or related neurohormonal systems. This is intended to include disorders, conditions, and illnesses listed in Diagnostic and Statistical Manual of Mental Disorders (DSM-III-R).

R. *Minor Dependent*—a dependent under the age of 24.

S. *Nonsmoker*—is an individual who has not smoked cigarettes, cigars, pipes or other substances within the past year.

T. *Participating Hospital*—a hospital located in Louisiana which has concluded a written agreement with, and in form approved by, an authorized carrier under the LA Health plan.

U. *Participating Provider*—a licensed health care provider who has concluded an agreement with, and in form approved by, an authorized carrier under the LA Health plan to serve those insured by LA Health.

V. *Provider*—includes any discipline licensed by the State of Louisiana to provide and be directly reimbursed for services covered by the LA Health plan including, but not limited to, the following:

1. doctor of medicine (M.D.) legally entitled to practice medicine and perform surgery by the Louisiana State Board of Medical Examiners;

2. doctor of chiropractic (D.C.) legally entitled to practice chiropractic services;

3. doctor of podiatric medicine (D.P.M.) legally entitled to practice podiatry;

4. all providers shall be licensed by the State of Louisiana.

W. *Pilot Plan*—a plan that provides an insured with health insurance under the LA Health program and is governed by R.S. 22:244-247 and authorized by the commissioner.

X. *Pilot Program*—the program of health insurance which is authorized by R.S. 22:244-247.

Y. *Semi-private Room*—a hospital room which has 2, 3, or 4 beds.

Z. *Service Area*—that part of the state of Louisiana in which the authorized carrier is applying to offer or is offering the pilot plan.

AA. *Skilled Nursing Care*—care required, while recovering from an illness or injury, which is received in a skilled nursing facility. This care requires a level of care or services less than that in a hospital, but more than could be given in the patient's home or in a nursing home not certified as a skilled nursing facility.

BB. *Smoker*—an individual who has smoked cigarettes, cigars, pipes or other substances within the past year or who is currently smoking cigarettes, cigars, pipes or other substances.

CC. *Utilization Review*—a function performed by an authorized carrier under the LA Health plan or an entity selected by the carrier to review and approve whether the services provided, or to be provided are medically necessary, including but not limited to, whether acute hospitalization, length of stay, outpatient care or diagnostic services are appropriate.

Section 5. Pilot Plan in General

A. An authorized carrier under the LA Health plan shall deliver coverage for the plan through a fully insured individual health insurance policy or health maintenance organization membership plan. Each authorized carrier shall design the plan to minimize the cost of delivery and administration of the plan and medical services for covered benefits.

B. An authorized carrier may provide coverage to individuals or their dependents or both. However, an authorized carrier may offer coverage for all adults or all children, or the individual's entire family.

C. An authorized carrier may accept partial payment for individuals enrolled under the LA Health plan from such individual's employers, however, such payment shall not be considered to be part of that employer's group health insurance if the employer offers other health insurance. Furthermore, such payment by an employer shall not change the status of the coverage, it remains an individual policy.

D. Employers who agree to make partial payment for individuals enrolled under the LA Health plan may be authorized by the enrolled employee to deduct insurance

premiums for the plan. Such a payroll deduction shall not be construed to alter the plan's status as an individual insurance policy.

Section 6. Pilot Plan Authorized Carrier

A. An authorized carrier shall be responsible for the operation of the LA Health plan for which it has been certified to operate.

B. An authorized carrier shall be authorized to participate in the LA Health plan by entering into a pilot plan agreement with the commissioner. The agreement shall incorporate the application procedure for health and accident insurance policy forms and shall not be authorized until such policy forms have been approved. Such approval shall include any revisions to the application which are agreed upon by the commissioner and the authorized carrier.

Section 7. Application Process

A. An applicant to become an authorized carrier shall apply for authorization to operate a LA Health plan by submitting an application to the commissioner. The applicant shall provide at least the following information:

1. the name of the carrier and a description of its role in funding, insuring and operating the pilot plan;

2. a full description of how the pilot plan will operate, including plan benefits, coverage limitations, premiums, provider networks, managed care provisions and administrative procedures of the plan;

3. a listing of participating providers by service category and geographic service area;

4. a draft of all materials describing the LA Health plan that are intended for distribution to insured members;

5. a description of the financial and organizational resources supporting the pilot plan.

B. Applications submitted to the commissioner's office will furthermore be judged on their ability to attain the intent of the LA Health plan according to the following criteria:

1. their ability to guarantee issue of the LA Health plan to the eligible population;

2. their ability to provide the LA Health plan as a community rated product;

3. their ability to provide the LA Health plan at premium amounts which are significantly lower than premium amounts for standard market policies of health and accident insurance;

4. their ability to implement cost containment features;

5. the degree to which their plan of benefits under the LA Health plan emphasizes primary health care services designed to prevent to need for more expensive health care services; and

6. variance beneficial to the eligible LA Health population from the minimum standards established for the LA Health plan's benefits outlined in Sections 15-18 of this regulation.

C. Applications may be submitted to the commissioner's office on or after the effective date of this regulation. Applications received before the effective date shall be subject to any revisions required by changes in this regulation. Applications received in the commissioner's office after 90 days of the effective date of this regulation will not be considered.

Section 8. Authorization of Pilot Plan

A. The commissioner shall have sole discretion regarding the authorization of carriers under the LA Health plan. Applications will be evaluated by the commissioner in order of their receipt. The commissioner shall have sole discretion in determining if an application is complete. Within 30 days of receiving a complete application, but in no event prior to the effective date of this regulation, the commissioner shall provide a written notice of findings to the applying carrier. That notice shall:

1. specify approval or rejection of the application and the grounds for that decision or;
2. specify additional information which is needed to clarify the application and a deadline for submitting that information. Within 30 days of receiving timely additional information, the commissioner shall provide a written notice of findings as described in Section 8.A.1. If the additional information is not provided by the deadline, the application shall be rejected.

B. In evaluating and authorizing carriers under the LA Health plan, the commissioner may consider, but not be limited to, the following criteria:

1. the extent to which the plan helps the pilot program achieve a diversity of participants and plan designs;
2. the potential of the plan to fulfill the objectives of the pilot;
3. the financial and organizational resources of the carrier;
4. the ability of the plan to meet the evaluation criteria described in Section 10 of this regulation;
5. the resources available within the department to regulate the pilot program.

C. The LA Health plan shall not be issued or delivered to an applicant for the plan until a copy of the form is filed and approved by the commissioner. The commissioner shall review these forms in accordance with the Insurance Code.

D. Each authorized carrier in the pilot plan shall file with the commissioner the rates, rating plans, and rating systems that will be applicable to the LA Health plan.

E. The commissioner, in accordance with the Insurance Code, may make, or cause to be made, an examination of the books and records of the authorized carrier of the LA Health plan as the commissioner deems necessary to ensure compliance with these regulations and the pilot plan agreement.

Section 9. Revocation of an Authorized Carrier's Authority

A. The commissioner may revoke the authority of an authorized carrier at any time if, in the judgement of the commissioner, one or more of the following, or similar, conditions exist:

1. the authorized carrier's plan does not comply with R.S. 22:244-246 or the Insurance Code;
2. an authorized carrier becomes subject to suspension or revocation of its certificate or authority under the Insurance Code;
3. the authorized carrier's plan is deficient regarding timeliness, accuracy, customer service or other administrative practices;

4. the authorized carrier's plan does not meet the evaluation requirements or reporting requirements described in Section 10 of this regulation;

5. a breach of the plan of the authorized carrier agreement occurs;

6. the successful operation of the plan of the authorized carrier is jeopardized by a weakness in the financial or operational status of the authorized carrier.

B. The commissioner shall provide written notice to the authorized carrier in advance of any revocation.

C. In providing notice, the commissioner shall specify the concerns at issue and shall request a written statement for the authorized carrier, to be provided within 15 days of the date of notice, describing how they propose to remedy the concerns.

D. Upon completion of review of the proposed remedy, the commissioner shall provide a written response which:

1. approves the remedy; or
2. requests additional information; or
3. provides notice of the proposed revocation of the carrier's authority to participate in the pilot plan.

Section 10. Evaluation and Reporting Requirements

A. Each plan shall be evaluated by the commissioner on its ability to enhance the delivery and improve the cost effectiveness of medical services for the insured. This evaluation shall compare the results of the plan's coverage. The criteria and methodology for this evaluation shall be determined by the commissioner, with prior advice of authorized carrier. An authorized carrier shall agree to participate in the evaluation process as a condition of operating under the LA Health plan.

B. An authorized carrier shall provide the following reports to the commissioner:

1. A written overview of plan results for each six months of plan operations. The report shall outline the operating results of the plan, including significant issues which arose and the responding actions taken by the plan and shall specify the number of insured and a demographic breakdown of those enrolled, the premiums collected, and utilization reports. The report shall be compiled after each six-month period of plan operation and shall be mailed to the commissioner by the 20th day of the subsequent month.

2. All reports required in accordance with Section 10.A.

C. Nothing in this rule shall be construed to limit the commissioner's authority to require information from an authorized carrier as necessary to monitor the carrier's compliance with the requirements of the LA Health plan.

Section 11. Premium Taxes

Premium taxes required under R.S. 22:1062 shall be imposed on an authorized carrier.

Section 12. Guaranty Association

All applicable assessments for the Louisiana Life and Health Insurance Guaranty Association shall be imposed on an authorized carrier in accordance with R.S. 22:1395.1-1395.19.

Section 13. Health Insurance Agents

For purposes of serving a LA Health plan policy, or soliciting prospective insureds for such a policy, agents possessing a health insurance license shall be deemed to be servicing and soliciting within the scope of their license,

pursuant to R.S. 22:1111-1119 and 22:2011 of the Louisiana Insurance Code.

Section 14. Eligibility

A. Eligibility for coverage and the effective date for an insured shall be determined by the authorized carrier after an applicant has returned the application for coverage to the authorized carrier and has been approved by said carrier. Eligibility for the LA Health plan is limited to Louisiana residents with income levels below 250 percent of the federal poverty level. Individuals with major medical accident and health insurance coverage, individuals who are eligible for coverage under the Medicaid or Medicare programs, and those who have voluntarily canceled their accident and health insurance coverage during the last six months are not eligible under the LA Health plan. The only exception to this requirement is for those individual eligibles who are without coverage because their coverage furnished in accordance with R.S. 22:215.13, group health continuation coverage, has expired; or for those individual eligibles with significantly reduced coverage through benefit riders or limitations.

B. Eligible adults may choose to purchase coverage only for themselves or all their children, or the entire family.

C. Unmarried eligible dependent children are eligible for coverage to age 21. Those children who are full-time students (after high school) in an institution of higher learning may remain covered to age 24. Such children shall be dependents under federal income tax laws.

D. A newborn child or an adopted child is covered, subject to Section 14.E, from the moment of birth or date of assumption of legal responsibility to age 21 unless married before age 21 in the case of a family enrolled. The child's coverage is no different than that of the primary insured adult. An additional premium payment is required.

E. A newborn child or an adopted child of an enrolled individual is automatically covered for 31 days only in the case of an individual enrolled. In order for a newborn child or an adopted child to receive coverage past the 31st day, the enrolled individual shall complete an application form and pay the necessary premium for plan coverage.

F. If an eligible individual does not apply for coverage under the plan for himself or any eligible dependent, then application may be made later. If such individual is approved for coverage, the effective date of coverage will be the next month following approval of the application and payment of the necessary coverage.

G. Insureds may reduce the number of individuals covered at any time by submitting a change of coverage form. Such changes become effective on the due date of the LA Health plan contract.

Section 15. Benefits

A. The LA Health plan is a basic health insurance plan providing primary and preventive health care services. Health care services are to be furnished by participating hospitals, clinics, and health care providers who have agreed to provide services under the LA Health plan. An authorized carrier shall supply insured individuals under the LA Health plan with a list of participating providers.

B. No requirement of the Louisiana Insurance Code relating to minimum required policy benefits, other than the minimum standards contained in this regulation or in R.S. 22:244-247, shall apply to the LA Health plan, its insureds or the authorized carrier.

C. The benefits provided by the LA Health plan are payable for services provided by a participating provider only. LA Health plan insureds shall receive care from a participating provider—no coverage is provided with any other providers. Insureds shall pay in full for care they receive if the provider they utilize is not a participating provider.

Section 16. Hospital Services

A. The LA Health plan provides for the following minimum or their actuarial equivalent inpatient hospital services:

1. 15 days of hospital inpatient care (hospital/medical) per calendar year. A \$50 per day copayment is required;

2. surgical procedures and related expenses are covered up to a maximum of \$5,000 per insured per calendar year. A \$50 per surgical procedure copayment is required;

3. the LA Health plan will pay for covered expenses incurred for services in a participating hospital for the following services based on the limitations above;

a. daily room, board and general nursing care at the semi-private rate charged by the participating hospital;

b. confinement in an intensive care or coronary care unit with such payment being in lieu of expenses covered under Section 16.A.3.a;

c. services and supplies furnished by the participating hospital which are necessary for inpatient medical care and treatment including diagnostic X-ray and lab services;

4. maternity care;

5. newborn nursery care from the moment of birth;

6. medical care and treatment by a participating provider while confined as an inpatient in a hospital;

7. radiological services by a licensed radiologist while confined as an inpatient in a hospital;

8. radiation therapy.

B. The LA Health plan provides for the following minimum or their actuarial equivalent outpatient hospital services:

1. the LA Health plan shall pay covered expenses incurred for outpatient diagnostic services for pre-admission tests, diagnostic X-ray and laboratory services at a participating facility. The outpatient benefit is limited to \$1,000 per insured per calendar year;

2. payment of outpatient hospital services is prohibited on the date of admission or during an admitted stay in a hospital as an inpatient.

Section 17. Emergency Room Benefits

A. The LA Health plan provides for the following emergency room benefits:

1. outpatient health care received in the emergency room of a participating hospital is covered, limited to a maximum of \$1,500 per insured per calendar year. This benefit is subject to an \$85 copayment per visit;

2. the copayment of \$85 per visit shall be waived if such a visit is followed by an admission to the participating hospital for the care of the illness or injury for which the person was treated in the emergency room.

B. An insured receiving emergency room care resulting from an illness or injury outside the service area of the authorized carrier shall have benefits of 50 percent of those for services received at a participating hospital.

Section 18. Provider Services

A. The LA Health plan provides for the following minimum or their actuarial equivalent primary health care provider services:

1. The LA Health plan will provide for health care provider services with such care including the general treatment of illness and diagnostic studies used to diagnose the cause of an illness.

2. All care received by a LA Health insured shall be related to the cause or symptom of the insured's illness or injury. Payment will not be made for care and treatment which is not deemed medically necessary.

3. Participating provider office visits are subject to a \$10 per visit copayment. Covered services in the participating provider's office include:

- a. laboratory and X-ray services;
- b. immunizations for children under age 19;
- c. prenatal care visits. Only one copayment for all visits shall be charged if the participating provider bills in one lump sum;
- d. an annual physical exam.

4. Fees for X-ray and laboratory tests made on an outpatient basis for diagnosis or treatment of an illness are covered when ordered by a participating provider. This benefit has a \$1,000 calendar year maximum and is subject to the insured paying either \$5 copayment or a maximum of 10 percent of the charge up to a maximum of \$1,100 per calendar year. The authorized carrier shall specify which option is to be taken in applying to participate in the LA Health plan.

5. Surgical and related expenses are covered under the LA Health plan up to a maximum of \$5,000 per insured per calendar year. A \$50 per surgical procedure copayment is required.

6. Maternity care is a covered service subject to the following copayment requirements:

- a. normal vaginal delivery - \$50 copayment;
- b. Cesarean delivery - \$100 copayment;
- c. if hospitalization follows delivery, the \$50 per day inpatient copayment shall apply.

B. Outpatient mental health care services provided by a provider licensed to diagnose and treat mental and nervous disorders are covered when provided by a participating provider up to a maximum of \$1,000 per calendar year with a \$10 per visit copayment.

C. Benefits for the following services are paid subject to the benefits listed in the regulation:

1. use of a participating hospital operating and treatment rooms and equipment;
2. diagnostic X-rays, laboratory procedures and medical diagnostic procedures used to determine the cause of an illness when performed within 14 days prior to participating hospital admission.

D. Benefits shall be provided for mammograms, a \$5 per screening copayment is required, when performed by a participating provider and performed with the following frequency:

1. once as a base-line mammogram for any female between 35 and 40 years of age;
2. once every two years for any female between 40 and 50 years of age;
3. once every year for any female age 50 or above; and
4. when recommended by a participating provider for a female at risk. Female at risk means a female:
 - a. who has a personal history of breast cancer;
 - b. who has a personal history of biopsy proven benign breast disease;
 - c. whose grandmother, mother, sister, or daughter has had breast cancer; or
 - d. who has not given birth prior to age 30.

E. Benefits are provided for one pap smear examination per year when performed upon recommendation of a participating provider. A \$5 per examination copayment is required.

F. Benefits are provided for annual prostate antigen tests for covered males who are 45 years of age or older; or covered males who are 40 years of age or older, if ordered by a participating provider. A \$5 per test copayment is required.

G. Benefits are provided for colon cancer screening when ordered by a participating provider. A \$5 per screening copayment is required.

Section 19. Limitations

A. Pre-existing conditions

1. Until coverage for an insured enrolled in the LA Health plan has been in force for 12 consecutive months, benefits for services to be paid to an authorized carrier shall not be available for any illness, injury or other condition for which:

- a. the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment, or a condition for which medical advice or treatment was recommended by or received from a provider of health care services, within six months preceding the effective date of coverage of an individual insured.

2. Maternity benefits are available to an insured only if the date of conception occurred after the effective date of coverage under the LA Health plan.

3. No coverage is available to inpatient hospital admissions which begin before an insured's effective date.

Section 20. Exclusions

A. There is no benefit provided for the following:

1. any treatment or care not received from a participating hospital or participating provider;
2. private duty nursing;
3. prescription drugs (outpatient) or over-the-counter medicines. However, outpatient prescriptions may be covered by an additional rider to the LA Health plan;
4. inpatient treatment or counseling for mental and nervous disorders;
5. care for any condition or injury recognized as a compensable loss through any workers' compensation, occupational disease or similar law;
6. any disease or injury resulting from a war, declared or not, or resulting from any military duty;
7. any item, service, supply or care not specifically listed as a benefit under the LA Health plan;

8. care given by a medical department or clinic run by an insured's employer;
9. hospitalization and related services or care rendered if primarily for diagnostic studies;
10. care of corns, bunions (except capsular or related surgery), callouses, nails of the feet (except surgical removal), flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints related to the feet;
11. admission or continued hospital stay for care not medically required on an inpatient basis;
12. skilled nursing care;
13. eyeglasses, contact lenses, hearing aids, hearing devices or cochlear implants, and related examinations and services;
14. charges for convenience items during a hospital admission;
15. custodial care, rest cures or travel expenses, even if recommended for health reasons by a physician;
16. care, supplies or equipment not medically necessary for the treatment of injury or illness;
17. cosmetic or reconstructive surgery except to restore function of any body area which has been altered by disease, trauma, congenital/developmental anomalies or previous therapeutic processes;
18. care prescribed and supervised by other than a participating provider;
19. dental care and treatment, by a dentists or a health care provider, including dental surgery, dental appliances, dental prostheses such as crowns, bridges, or dentures; implants, orthodontic care, operative restoration of teeth (fillings); dental extractions (except impacted teeth); endontic care; apicoectomies, treatment of dental caries, gingivitis, or periodontal surgery, vestibuloplasties, alveoloplasties, dental procedures involving teeth and their bone or tissue supporting structures; frenulectomy; temporomandibular joint syndrome (TMJ) including related appliances; or other dental procedures. Except for the following treatments which shall be reimbursable at the levels specified in Section 18 of this regulation:
 - a. to correct traumatic injuries which occur while the insured is covered under the LA Health plan; or
 - b. to correct congenital defects of a child born under and who remains covered under the LA Health plan; or
 - c. for the extraction of impacted teeth after the required waiting period has been met;
20. surgical or medical care for obesity, weight reduction or dietary control;
21. surgical or medical treatment to modify the sex of an individual or services related to the treatment for impotence or other sexual dysfunctions or inadequacies;
22. professional ambulance service;
23. hair transplants, hair pieces, wigs, wig maintenance or prescriptions or medications related to hair growth;
24. advice or consultation given by any form of telecommunication;
25. services and supplies which are experimental or investigational in nature;
26. charges for failure to keep a scheduled visit or charges for completion of claim forms; charges for physician

- or hospital stand-by services; charges for holiday or overtime rates;
27. outpatient speech, occupational, cardiac rehabilitation or physical therapy;
28. outpatient use of durable medical equipment;
29. radial keratotomy; and surgery, services or supplies for the surgical correction of nearsightedness and/or astigmatism;
30. services related to or performed in conjunction with artificial insemination, invitro fertilization or infertility;
31. biofeedback, recreational, or educational therapy, or other forms of self-care or self-help training and any related diagnostic testing;
32. services for conditions related to autistic disease of childhood, hyperkinetic syndromes, learning disabilities, behavioral problems or mental retardation;
33. charges for treatment of a physical injury resulting from suicide or a suicide attempt, sane or insane;
34. intentionally self-inflicted injury;
35. injuries received while committing a crime.

Section 21. Outpatient Prescription Rider

An authorized carrier may offer as rider to the LA Health plan coverage for outpatient prescription drugs that includes a minimal copayment.

Section 22. Premium Maximums, Method for Calculating

A. Premiums charged for the LA Health pilot plans shall be based on the average standard rate charged by the five largest health and accident insurers offering individual coverage in the state as identified by the Louisiana Health Insurance Association's annual survey in accordance to R.S. 22:240F(3). Annual survey results may be obtained from the department. For the purpose of calculating the maximum premiums as established in Section 22.B of this regulation, insurers shall use the premiums identified in the Louisiana Health Insurance Association's Plan A and shall use the strict average of male and female rates.

B. Premium rates shall be community rated within each service area, but may vary according to an enrolled individual's status, i.e., adult or minor dependent and smoker or nonsmoker, as established in Section 22.B.1-3 of this regulation.

1. Adult individual rates shall be based on a per unit basis. Each individual's premium rate enrolled in the plan shall be no more than 60 percent of the strict average of the average individual standard rate charges for adults as identified in Section 22.A of this regulation.

2. For the purpose of establishing the premium rate for minor dependents, there shall be one rate regardless of the number of minor dependents enrolled under each plan policy. The premium rate for minor dependents shall be no more than 60 percent of the average individual standard charged for children as identified in Section 22.A of this regulation.

3. Rates may vary according to an individual's status as either a smoker or nonsmoker. For those individuals enrolled in the plan as a smoker, premium rates identified in this Section shall be based on the average individual standard rate charged for smokers as identified in this Section. For those individuals enrolled in the plan as a nonsmoker, premium rates

identified in this Section shall be based on the average individual standard rate charge for nonsmokers as identified in Section 22.A of this regulation.

4. Where a sliding scale is utilized for setting an individual or family's premium payment amount (including any contribution which may be made by an employer), the maximum payment amount for the highest income level cannot exceed the upper limits established under Section 22.B.1-3 of this regulation.

Section 23. Payment of Benefits

A. An insured under the LA Health plan is entitled to benefits for covered services as specified in this regulation and in the contract between an authorized carrier and the insured.

B. Benefits will be provided only if covered services are prescribed by or performed by or under the direct supervision of a participating provider.

Section 24. General Provisions

A. All premium payments for coverage are due in advance. Monthly premium payments are for a complete month of coverage. There are no refunds and any cancellations will be effective on the first day of the month for which a premium has not been paid.

B. Any insured under the LA Health plan may be considered for reinstatement within six months of termination no matter what the reason prior coverage was terminated.

C. If coverage is terminated due to lack of payments, the insured may reapply for coverage within 90 days and pay any premiums still due.

D. An insured under the LA Health plan may renew coverage by payment of the necessary premiums to the authorized carrier by the due date.

E. An authorized carrier may change the amount of monthly premium for the LA Health plan in compliance with the Insurance Code. Payment by the insured of the new rate is sufficient to indicate acceptance of the new rate.

F. The LA Health plan shall be governed by the laws and regulations of the State of Louisiana and specifically those of the LA Health plan. Nothing in the LA Health plan shall be construed so as to be in violation of any federal or state law or regulation with the exception of laws specifically preempted by R.S. 22:244-247.

Section 25. Termination of Coverage

A. An insured's spouse who would otherwise lose coverage due to a divorce or death is automatically eligible for coverage in his or her name.

B. Coverage for any child terminates the last day of the month during which such child is no longer eligible for coverage under the LA Health plan.

James H. "Jim" Brown
Commissioner of Insurance

9409#028

RULE

Department of Social Services Office of Family Support

AFDC Fraud Control Program (LAC 67:III.1503)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.1503, the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to federal regulations at 45 CFR 235 which changed the federal financial participation rate for AFDC fraud control, the department has removed a section of Subpart 2 which details such funding. The inclusion of this information in the *Louisiana Administrative Code* was inappropriate.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Aid to Families with Dependent Children (AFDC)

Chapter 15. General Program Administration

Subchapter B. Fraud

§1503. Fraud Control Program

A. The Office of Family Support maintains a fraud control program in the Aid to Families with Dependent Children (AFDC) Program.

B. Under this program, the Office of Family Support may:

1. implement an administrative hearing procedure for AFDC fraud cases; and
2. disqualify the adult found guilty of AFDC fraud by a court or in an administrative hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 100-203 and 45 CFR 235.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Eligibility Determinations LR 14:439 (July 1988), amended by the Department of Social Services, Office of Family Support LR 20: (September 1994).

Gloria Bryant-Banks
Secretary

9409#053

RULE

Department of Transportation and Development Office of Highways

Utility Operator Fee Schedule (LAC 70:III.1501)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development has amended the rule entitled "Utility Operator Fee Schedule", LAC 70:III.1503, in accordance with R.S. 48:381(E).

Title 70
TRANSPORTATION AND DEVELOPMENT

Part III. Highways

Chapter 15. Utility Operator Permit Fees

§1503. Procedure

A. 1. - 6. ...

7. Each operator shall pay the invoice in full by January 31 of the following year.

8. - 9. ...

10. Issuance of permits to operators failing to submit full payment by February 1 of each year shall be suspended. The operator shall be notified of this deficiency, and shall have 60 days from the date of this notification to submit payment in full. Facilities owned by operators who fail to submit full payment within the 60-day notification period shall be removed from highway right-of-way.

11. ...

12. Upon receipt of all monies, the Department of Transportation and Development shall deposit same in the Right-of-Way Permit Processing Fund. All monies existing in this fund at the end of each fiscal year shall be retained in the Right-of-Way Permit Processing Fund and shall not be deposited in the General Fund.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:381(E).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 20:318 (March 20, 1994), amended LR 20: (September 1994).

Jude W. P. Patin
Secretary

9409#055

RULE

Department of Treasury
Board of Trustees of the Teachers' Retirement System

DROP Policy—Affidavit (LAC 58:III)

Notice is hereby given that the Board of Trustees of the Teachers' Retirement System of Louisiana, pursuant to the notice of intent published June 20, 1994, and under authority contained in R.S. 11:826 and R.S. 11:786-791, adopted amendments to the policies for implementation of the Deferred Retirement Option Plan as follows.

* * *

17. If a member fails to return a completely executed and notarized Affidavit of Plan Election to choose a retirement benefit option by 90 calendar days after their receipt of the unsigned affidavit, or by 90 calendar days after the beginning of their DROP participation, whichever is later, they will be deemed not to have elected to participate in DROP. Employee and employer contributions and appropriate interest or actuarial cost must then be remitted to TRSL for the prior period of TRSL employment in order to receive service credit for that period.

For purposes of this Section, the signed affidavit must be postmarked no later than 90 calendar days after receipt by member of the unsigned affidavit or by 90 calendar days after

the beginning of their DROP participation, whichever is later.

18. A member shall not begin their DROP participation until TRSL has received a fully completed, signed and witnessed original Application for Service Retirement, Form 11A, and a fully completed, signed and witnessed original Application for DROP, Form 11F. FAX copies will not be accepted for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20: (September 1994).

James P. Hadley, Jr.
Director

9409#063

RULE

Department of Treasury
Bond Commission

Deadline and Financial Statements

The Department of Treasury, State Bond Commission hereby amends Rules 2 and 4 regarding deadlines and financial statements as follows:

Rule Number 2

Applications, to include the name, address, and telephone number of the responsible official, must be filed with the commission at least 20 working days prior to the commission meeting at which the application will be considered. However, the secretary of the commission may approve a later filing for an emergency or an extraordinary situation. One copy of any related resolution or ordinance, certified by a duly authorized official, and one copy of the financial statements described in Rule Number 4 shall be submitted with the application. Unless otherwise provided by these rules, all information relating to an application shall be submitted to the commission no later than 10 working days prior to the commission meeting at which the application will be considered; otherwise, the application will not be docketed for consideration.

Rule Number 4

Rescind existing Rule Number 4 in its entirety and reenact Rule Number 4 with the following provisions:

Financial statements, as described below, must be submitted with all applications to incur debt:

If the recently completed operating year ended less than 90 days prior to the date of the application to incur debt, the following financial statements must be submitted with the application:

a. financial statements covering all funds for the second preceding year; and

b. interim financial statements, for the General Fund and for the fund from which the debt will be paid, from the date of the last financial statements to three months prior to the date of the application.

If the most recently completed operating year ended 90 days or more prior to the date of the application to incur debt, the following financial statements must be submitted with the application:

- a. prior year financial statements covering all funds; and
- b. interim financial statements, for the General Fund and for the fund from which the debt will be paid, from the date of the prior year financial statements to three months prior to the date of the application.

Mary L. Landrieu
State Treasurer

9409#022

RULE

Department of Treasury Bond Commission

State Debt Limit

Whereas, Article VII, Section 6(F) of the Louisiana Constitution (Acts 1993, No. 1044, §1, approved October 16, 1993, effective November 17, 1993) and R.S. 39:1367 (Acts 1993, No. 813, §1, effective July 1, 1993) established a limitation on the amount of net state tax supported debt which may be issued in any fiscal year; and

Whereas, these provisions of the constitution and laws of the state of Louisiana provide certain duties and responsibilities of the State Bond Commission (the "commission"); and

Whereas, in carrying out these duties and responsibilities, the commission must annually establish the limitation on the issuance of net state tax supported debt and must determine if debt issues presented for approval by the commission are to be included in net state tax supported debt; and

Whereas, R.S. 39:1367 defines "net state tax supported debt" but does not illustrate specific types of debt which are included in this definition,

Therefore be it resolved that the commission adopted the following rule which encompasses the full and complete authority to be followed by the commission in implementing the state debt limit and Article VII, Section 6(F) and of R.S. 39:1367, as now or hereinafter amended, are by reference made a part hereof.

Rule

The State Bond Commission shall annually establish the maximum dollar amount which may be expended in any year for servicing net state tax supported debt, as such terms are defined by law (the "debt limit"). This is to be a computation based on the formula used in R.S. 39:1367 (as now or hereinafter amended) and shall include an estimate of the par amount of bonds which can be issued, and shall report such debt limit to the Legislature, the governor and the Joint Legislative Committee on Capital Outlay by November 1 of each year.

For purposes of this rule, the following debt and types of debt are determined to be net state tax supported debt and shall be included in the debt limitation established annually by

the State Bond Commission (for specific issues and amounts of the inclusions listed below the commission will cross reference the Louisiana Division of Administration, Statewide Reporting):

1. General Obligation Bonds Secured by the Full Faith and Credit of the State

General obligation bonds secured by the full faith and credit of the state shall include general obligation bonds issued pursuant to Article VII, Section 6 of the State Constitution, R.S. 39:1316-1366 and other constitutional and statutory authority supplemental thereto as well as bonds which were authorized or issued prior to the adoption of the State Constitution of 1974 which are currently backed by the full faith and credit of the state ("General Obligation Debt Equivalents"). As of the date of the adoption of this rule, this category includes the following: general obligation bonds; highway construction bonds; capital improvement bonds; Charity Hospital of Louisiana (New Orleans) bonds; higher education bonds.

2. Debt Secured by Capital Leases of Immovable Property Payable by the State or Annual Appropriations of the State

Debt secured capital leases of immovable property payable by the state or annual appropriations of the state shall include debt secured by revenues derived from lease payments by and between the state and any agency, corporation, public trust, authority, or political subdivision whether paid from the Bond Security and Redemption Fund or by direct State General Fund appropriation but not backed by the full faith and credit of the state.

For purposes of this rule, capital leases are as defined by generally accepted accounting principals. As of the date of the adoption of this rule, this category includes the following: office facilities corporation bonds; LPFA - Hotel Dieu, 1992; Louisiana office building corporation bonds; Louisiana correctional facilities corporation bonds.

3. Debt Secured by Statewide Tax Revenues or Statewide Special Assessments

Debt secured by statewide tax revenues or statewide special assessments shall include revenue debt having a specifically identified major tax, licenses or fee dedication. As of the date of the adoption of this rule, this category includes the following: Louisiana Recovery District bonds; gasoline and fuels tax revenue bonds (Transportation Trust Fund).

4. Bonds Secured by Self-supported Revenues which in the First Instance may not be Sufficient to Pay Debt Service and will then Draw on the Full Faith and Credit of the State

Bonds secured by self-supported revenues which in the first instance may not be sufficient to pay debt service and will then draw on the full faith and credit of the state shall include those revenue bonds which are self-supporting but which have a lien on or guaranty of either the Bond Security and Redemption Fund or indirectly by State General Fund appropriation. As of the date of the adoption of this rule, this category includes certain bonds of the following issuers: Ascension St. James Bridge Authority, Lake Charles Harbor Authority, Crescent City Connection, Louisiana Agricultural Authority, Colleges and Universities, Greater Baton Rouge

Port, Port of New Orleans, Greater New Orleans Expressway Commission.

For purposes of this rule, the State Bond Commission, when unable to determine the classification of a debt issue as net state tax supported debt under the provisions of R.S. 39:1367 or the rules of the commission, may request an advisory opinion of the legislative auditor of the proper classification of such debt issue based upon the criteria of the Governmental Accounting Standards Board codification of Governmental Accounting and Financial Reporting Standards. The State Bond Commission may also request an opinion of the attorney general of the proper classification of such debt based upon the constitution and laws of the state of Louisiana. Both such opinions may be considered by the commission prior to any determination of the classification of such debt issue as net state tax supported debt.

Mary L. Landrieu
State Treasurer

9409#023

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Tilapia Aquaculture (LAC 76:VII.903)

The Department of Wildlife and Fisheries hereby amends a rule governing the regulations on the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia and/or their hybrids in Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture - Exotic Species

§903. Tilapia

A. Rules and Regulations on Importation, Culture, Possession and Disposal of Tilapia in Louisiana. The following terms shall have the following meaning in this Section.

* * *

Culture System—shall be an approved indoor system designed such that all water containing, or that at any time might contain, tilapia (adult fish, juvenile fish, fry, or fish eggs) is filtered, screened and/or sterilized in such manner as the department deems adequate to prevent any possibility of escape from the system.

* * *

Tilapia Permit—official document that identifies the terms of, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia in Louisiana as approved by the secretary or his designee.

* * *

B. Tilapia Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, possess, dispose, transfer or sell live tilapia in Louisiana must first request a permit from the secretary or

his designee of the Louisiana Department of Wildlife and Fisheries. The following procedures will be necessary.

a. Applications for permits can be obtained by contacting the permits supervisor, Inland Fisheries Division, Louisiana Department of Wildlife and Fisheries, P.O. Box 98000; Baton Rouge, LA 70898-9000.

b. The completed applications should be returned to the same address whereby Inland Fisheries Division personnel will review the application. Department personnel or a department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a tilapia permit. Department personnel will then recommend to the permits supervisor if the applicant's request should be approved or disapproved.

d. The secretary or his designee will notify the applicant, in writing, as to whether or not the permit has been granted and if not, why. In the event of disapproval, applicants may reapply after correcting specified deficiencies noted in the secretary's or his designee's letter of denial.

* * *

D. Rules for Security of Tilapia Culture Facility

* * *

4. It shall be the responsibility of the permittee to immediately notify the secretary or his designee of any tilapia that leave the facility for any reason, including but not limited to accidental releases, theft, etc.

* * *

F. Rules for the Tilapia Culture System

* * *

2. The tilapia culture system shall be an approved indoor system designed such that tilapia eggs, larvae, juveniles or adults cannot escape.

3. All water utilized in the culture of tilapia shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the culture system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

* * *

H. General Rules for Tilapia

* * *

9. The permittee shall be required to submit an annual report to the secretary or his designee on a form provided by the department.

* * *

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligation, the permittee shall, at the option of the department, post a \$25,000 performance bond, or present a letter of credit from a financial institution stating that the \$25,000 is available to the department on a certificate of deposit.

12. If a permittee terminates tilapia production, the permittee shall notify the secretary or his designee immediately and dispose of the tilapia according to methods approved by the department.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:804 (August 1991), amended LR 20: (September 1994).

Joe L. Herring
Secretary

9409#021

NOTICES OF INTENT

NOTICE OF INTENT

Department of Economic Development Auctioneers Licensing Board

Amendment of LAC 46:III.2503, Licensing of Auction Business; Repeal and Repromulgation of LAC 46:III.2105, Fines for Advertising Violations

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:3101 et seq., the Department of Economic Development, Louisiana Auctioneers Licensing Board, hereby gives notice of its intent to amend LAC 46:III.2103, Licensing of Auction Business and reclassify this rule text as Section 2501 in a new Chapter 25 entitled "Auction Business." In addition, the rule text of LAC 46:III.2105, Fines for Advertising Violation, is being reclassified, in its entirety, in a new Section 1503 of Chapter 15, Violations and Penalties.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Chapter 15. Violations and Penalties

§1503. Fines for Advertising Violations

Violations of Chapter 17 requiring that the licensee place his name and license number in all advertising will result in a money fine to be levied against him. The amount of the fine will be \$50 for the first offense and \$100 for the second offense. A third or subsequent offense may result in a fine or other disciplinary action within the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 20:

Chapter 21. Rule Making Process

§2103. Licensing of Auction Business

Repealed. [See proposed amended rule in §2501]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988), amended LR 15:257 (April 1989), repealed LR 20:

§2105. Fines for Advertising Violations

Repealed. [See identical rule in §1503]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 14:788 (November 1988), repealed LR 20:

Chapter 25. Auctioneer Business

§2501. Licensing of Auction Business

A. Preamble. Louisiana Auctioneers Licensing Board herein promulgates rules for the licensing and regulation of auction businesses in the State of Louisiana, pursuant to the authority granted to it in Louisiana Revised Statute 37:3101(A).

B. Application of Rules

1. For purposes of these rules and regulations, the term "auction business" shall mean the same and may be used interchangeable with the term "auction house" and "auction company" as articulated in Louisiana Revised Statute 37:3103(A)(11).

2. Definitions

Auction Business—as used in 37:3103(A)(11) shall be further defined as any place of business, including but not limited to an auction barn, sale barn, antique gallery, sale pavilion, and contiguous surrounding, where two or more auctions are held within any 12-month period and where representations are regularly made that goods are sold at auction. Each day when goods or real estate are being offered for sale at auctions shall constitute one auction. A sale barn or livestock auction business that is used exclusively for the auctioning of livestock is not an auction business as defined herein.

Board—the Louisiana Auctioneers Licensing Board.

Licensee—any person licensed under these rules, and in the case of an auction business, includes the person required to obtain a license for such auction house or auction company.

C. Scope of Regulation. Every applicant seeking to operate an auction house shall file with the board a completed application (on a form provided by the board) for a license for each auction business to be operated by that person. Although an auction business may operate in more than one location, at all times, it may only operate under the name licensed with the Louisiana Auctioneers Licensing Board.

D. Licensing Fee. Each application for licensing shall be accompanied by a license fee in the amount of \$300. Any applicant whose application is denied shall be refunded the entire application/license fee within 30 days of such denial. Renewal of each auction business license shall be on an annual basis, no later than February 1 of each calendar year. An auction business license renewal fee shall be \$300.

E. Application Information. Each applicant shall submit

the following information on the designated application form:

1. names of owners and length of time of ownership of the business;
2. all business addresses of the applicant;
3. all auctioneers licensed by this state and employed by the business on a regular basis. ("Regular" shall mean more than any single auction in the previous calendar year);
4. the nature of the business and product sought to be sold;
5. two references who are currently licensed Louisiana Auctioneers in good standing with the Louisiana Auctioneers Licensing Board.

F. Board of Right of Investigation

1. Upon receipt of a completed application for an initial or renewal license, the board shall examine the application and may verify the information contained therein.

2. A license to operate as an auction business may be denied, revoked or suspended for the same reasons as those pertaining to auctioneers, articulated at Louisiana Revised Statute 37:3121. All provisions of this statute and rules relating to the non-issuance, suspension, revocation, or restriction of license granted to individual auctioneers will apply to the regulation of an auction business. All provisions of this statute and rules relating to the reinstatement of licenses shall also apply.

G. The qualifications of an applicant applying for an auction business license shall be the same as those articulated at Louisiana Revised Statute 37:3113(a)1 through 37:3113(b)4, pertaining to the licensing of auctioneers.

H. An auction business licensee shall be able to operate the licensed auction business in any parish of the State of Louisiana. Should the licensee desire to operate the business at more than one location or change the location, the licensee shall give the Louisiana Auctioneers Licensing Board written notice of the change at least five days prior to the change of address or establishment of new location, as well as provide a physical and mailing address of the new or additional location of the business. Failure by licensee to give notice to the Louisiana Auctioneers Licensing Board after such change of location (or establishment of an additional location) shall be grounds for revocation of the auction business license by the board.

I. A licensee's auction business license shall automatically be suspended if no licensed auctioneer is engaged in conducting the auctions for the licensee. Such license may be reinstated by the board for the unexpired term upon proof that a duly licensed auctioneer has been affiliated with the auction business.

J. The provision of Louisiana Revised Statute 37:3115 relative to renewal of license, certificate and penalties for failure to renew the license of auctioneers, shall also apply to an auction business license.

K. No auction business license shall be issued or renewed unless the applicant presents a bond in the amount of \$10,000 in a form approved by the board.

L. A resident Louisiana licensed auctioneer may operate an auction business without a fee, and without posting of an additional surety bond if a surety bond guaranteeing his performance as an auctioneer has previously been posted.

M. An auction business must display in its' office or offices its' current license to do business as an auction business at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 20:

Comments regarding the proposed rule amendments should be forwarded to Bobby Green, Chairman, Louisiana Auctioneers Licensing Board, 8017 Jefferson Highway, Suite B-3, Baton Rouge, Louisiana 70809. Comments will be accepted through 4:30 p.m., October 20, 1994.

Bobby Green
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensing of Auction Business

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation cost will be approximately \$500 for publishing costs in fiscal year 1994-1995.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Auctioneers Licensing Board anticipates an increase in revenue collections of approximately \$10,000 annually as a result of the proposed rule. These revenues will be used to meet the operating expenses of the Auctioneers Licensing Board.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The estimated costs to directly affected persons (owners of auction business) shall be \$300 (the same fee charged to auctioneers seeking individual licenses).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Tyron D. Picard
Counsel to the Board
9409#016

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1882—Administrative Leadership Academy Guidelines, 1994

The State Board of Elementary and Secondary Education, at its meeting of July 28, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq., and approved for advertisement Revised Bulletin 1882, Administrative Leadership Academy Guidelines, 1994. Bulletin 1882 is also referenced in the Administrative Code as noted below.

The complete document may be viewed at the Office of the State Register, Fifth Floor, Capitol Annex, 1051 North Third Street, Baton Rouge, LA; in the Office of Academic

Programs, State Department of Education; or in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, LA.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§920. Administrative Leadership Academy Guidelines**

A. Bulletin 1882

1. Bulletin 1882, Administrative Leadership Academy Guidelines, 1994, is adopted.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:850 (October 1990), amended LR 20:

Interested persons may submit comments on the proposed policies until 4:30 p.m., November 11, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1882—Administrative Leadership
Academy Guidelines, 1994**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There will be a cost of approximately \$791.28 to print 4,000 copies of Bulletin 1882.
BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There will be no revenue collection of state or local governmental units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
There are no additional costs or economic benefits to the administrators affected.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent
9409#049

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Environmental Science Certification Requirements

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, certification requirements for Environmental Science for inclusion in Bulletin 746, Standards for state Certification of School Personnel. The certification requirements for Environmental Science will become effective August 1, 1999.

Science Areas

The minimal requirements for certification in each science area are listed below. Laboratories normally associated with each science* shall be taken. In addition, credit or proficiency in college algebra and trigonometry is the minimal math requirement.

1. General Science

Thirty-two semester hours, to include eight semester hours in biology, eight semester hours in chemistry, eight semester hours in earth science, and eight semester hours in physics.

Certification may be earned in both general science and any of the four subject areas if an additional eight semester hours of credit are earned in each expanded area. For biology, course work must include botany, zoology, and microbiology; for chemistry, course work must include general, organic and quantitative analysis or physical chemistry; for earth science, course work must include physical and historical geology; for physics, at least one semester of calculus is required in addition to the total of 16 hours of physics. Dual certification may be earned in general science and environmental science if a total of 40 semester hours is earned which includes four additional semester hours in biology and four additional semester hours in chemistry. The course work must include general biology and ecology, general and organic chemistry, and physical geology or its equivalent.

2. Biology

Twenty semester hours, to include courses in botany, zoology, and microbiology. At least one year of college level chemistry is required, and it is desirable that the course of study include some organic chemistry.

Certification may be earned in biology and chemistry, or biology and earth science if a total of 40 semester hours is earned in the two fields with not fewer than 16 in either. When the lesser number of hours is in chemistry, courses in general, organic and quantitative analysis or physical chemistry shall be included. When the lesser number of hours is in earth science, courses in physical and historical geology shall be required. Certification may be earned in biology and environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification and four additional semester hours in biology. The course work in biology must include botany, zoology, and microbiology. In addition, certification may be earned in chemistry and biology and

environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification, four additional semester hours in biology and four additional semester hours in chemistry. The course work in biology must include botany, zoology, and microbiology; and the course work in chemistry must include quantitative analysis or physical chemistry.

* These laboratory courses are those that, in the view of the respective science faculties, specifically support the same subject matter as that being taught in the corresponding lecture courses of the discipline, whether or not the lecture and laboratory are combined under one course number or carry separate numbers in a particular institution.

3. Chemistry

Twenty semester hours, to include a minimum of one year of general chemistry, one course in organic chemistry, and one course in either quantitative analysis or physical chemistry.

Certification may be earned in chemistry and biology, chemistry and physics, or chemistry and earth science if a total of 40 semester hours is earned in the two fields with not fewer than 16 in either. If the lesser number of hours is in biology, courses in botany, zoology, and microbiology shall be included. If the lesser number of hours is in physics, at least one semester of calculus shall be required. When the lesser number of hours is in earth science, courses in physical and historical geology shall be required. Certification may be earned in chemistry and environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification and four additional semester hours in chemistry. The course work in chemistry must include quantitative analysis or physical chemistry. In addition, certification may be earned in chemistry and biology and environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification, four additional semester hours in biology and four additional semester hours in chemistry. The course work in biology must include botany, zoology, and microbiology; and the course work in chemistry must include quantitative analysis or physical chemistry.

4. Earth Science

Twenty semester hours, to include courses in physical geology and historical geology.

Certification may be earned in earth science and chemistry or earth science and biology or earth science and physics if a total of 40 semester hours is earned in the two fields with not fewer than 16 in either. When the lesser number of hours is in chemistry, courses in general, organic and quantitative analysis or physical chemistry shall be included. If the lesser number of hours is in biology, courses in botany, zoology, and microbiology shall be included. If the lesser number of hours is in physics, at least one semester of calculus shall be required. Certification may be earned in earth science and environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification and 10 additional semester hours in earth science. The course work in earth science must include historical geology.

5. Physics

Twenty semester hours. Certification may be earned in both physics and mathematics if a total of 40 semester hours is earned in the two fields with not fewer than 16 in either. In either case, at least one semester of calculus shall be included.

6. Environmental Science

Thirty semester hours, to include:

12 semester hours in biology (including general biology and ecology);

12 semester hours in chemistry (including general chemistry and organic);

6 semester hours in earth science (including physical geology or its equivalent).

Dual certification in environmental science and general science requires an additional two semester hours of earth science and eight semester hours of physics.

Certification may be earned in both environmental science and biology with an additional four semester hours in biology and a total of 40 hours. The course work in biology must include botany, zoology, and microbiology.

Certification may be earned in both environmental science and chemistry with an additional four semester hours in chemistry and a total of 40 hours. The course work in chemistry must include quantitative analysis or physical chemistry.

Certification may be earned in environmental science and biology and chemistry with four additional semester hours of biology, four additional semester hours of chemistry and a total of 40 hours. The course work in biology must include botany, zoology, and microbiology; and the course work in chemistry must include quantitative analysis or physical chemistry.

Certification may be earned in both environmental science and earth science with an additional 10 semester hours in earth science and a total of 40 hours. The course work in earth science must include historical geology.

Certified teachers who have taught environmental science may petition the Bureau of Higher Education and Teacher Certification to be "grandfathered" in with environmental science certification if they meet the following qualifications by August 1, 1999:

a. hold certification in biology, chemistry or earth science, have earned an additional six semester hours in environmentally related courses and have taught environmental science successfully for three years as verified by the employing authority; or

b. have taught environmental science successfully for five years as verified by the employing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

Interested persons may submit comments on the proposed policy changes until 4:30 p.m., November 9, 1990 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Environmental Science Certification
Requirements**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The adoption of this proposed rule will cost the Department of Education approximately \$100 (printing and postage) to disseminate the policy.
BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$130. Funds are available.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The proposed rule will have no effect on revenue collection.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
There will be no additional costs or economic benefits to directly affected persons or nongovernmental groups as a result of this action.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
Individuals who gain certification in environmental science should be viewed more favorably for employment in this subject area.

Marlyn Langley
Deputy Superintendent
9409#048

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Honors Scholarship (LAC 28:V)

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces the amendment of rules regulating the Louisiana Honors Scholarship Program. The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the regulations until 4:30 p.m., November 20, 1994, addressed to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Honors Scholarship**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The estimated cost for the Office of the State Register to publish the policy change is \$100. Estimated cost for LOSFA to print and disseminate the policy revisions is \$20. The award expenditures for two honors scholars, assuming acceptance of award funding and continuing eligibility, are projected at \$4,200 for the first year and up to \$21,000 for the fifth year.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
No impact on revenue collections of state or local governmental units is anticipated from the implementation of this rule.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
Individuals who receive the honors scholarship have their tuition paid at state institutions of higher education.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
No impact on competition and employment is anticipated from implementation of this rule.

Jack L. Guinn
Executive Director
9409#061

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

SSIG Award Check Release (LAC 28:V)

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to amend the Scholarship and Grant Policy and Procedure Manual as follows.

VIII C.1.d. Insert between "Student" and "in an eligible program": "both at the time of certification and on the fourteenth class day (ninth class day for Louisiana Tech)".

VIII C.1.e. Replace current word: "college" with "postsecondary."

VIII C.2.b. Replace current text with: "To receive a SSIG disbursement, the student must be full-time both at the time of certification and on the 14th class day (9th class day for Louisiana Tech)."

VIII C.3.h. Replace current text with: "Must be full time both at the time of certification and on the fourteenth class day (ninth class day for Louisiana Tech) to receive a SSIG disbursement."

Glossary: "First time, Full-time Enrollment", Replace current word: "college" with "postsecondary", insert "winter" between "fall" and "or spring", and insert "and continues to be enrolled on the fourteenth class day (ninth class day for

Louisiana Tech), is defined as a first time, full-time enrollee" after "of the award year."

Interested persons may submit written comments on the regulations until 4:30 p.m., November 20, 1994, addressed to: Jack L. Guinn, Executive Director, Office of Student financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: SSIG Award Check Release**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated cost for the Office of the State Register to publish the policy revision is \$40. The estimated cost for LOSFA to print and disseminate the changes is \$20.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections are anticipated to implement the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The rule is advantageous to students and is more consistent with LASFAC policies governing release of award funds for other scholarship/grant programs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated from implementation of this rule.

Jack L. Guinn
Executive Director
9409#062

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Elections and Registration
Commissioner of Elections**

Voter Registration (LAC 31:II.601, 603, 605)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and under the authority vested in the commissioner of elections by Section 116 of Title 18 of the Louisiana Revised Statutes of 1950, the commissioner of elections is hereby giving notice of his intent to adopt rules and regulations for registration of voters at optional voter registration agencies.

**Title 31
ELECTIONS**

Part II. Voter Registration

**Chapter 6. Voter Registration at Optional Voter
Registration Agencies.**

§601. Objective

The objective of these proposed rules and regulations is to

designate additional voter registration agencies as required by R.S. 18:116(A)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:116.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 20:

§603. Designation of Optional Voter Registration Agencies

The following offices are hereby designated as voter registration agencies:

1. all public colleges and universities;
2. all public high schools;
3. all private colleges and universities with their permission;
4. all private high schools with their permission; and
5. all municipal city halls or other municipal buildings designated by the municipal governing authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:116.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 20:

§605. Implementation

Voter registration at all public colleges and universities will be implemented by January 1, 1995. Voter registration at all public high schools will be implemented by March 31, 1995. Private colleges, universities and high schools with their permission will implement voter registration by March 31, 1995. Municipal city halls or other municipal buildings designated by the municipal governing authorities will implement voter registration no later than June 30, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:116.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 20:

Interested persons may submit written comments on the proposed rules and regulations until 4:30 p.m. on November 4, 1994, at the following address: Jerry M. Fowler, Commissioner, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179. All interested persons will be afforded an opportunity to present their views in writing.

Jerry M. Fowler
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Voter Registration**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The costs to the Department of Elections and Registration is estimated at \$7,500 which includes the printing of voter registration application forms. The cost to local governments will be for transmitting completed application forms and should be less than \$25 yearly each or a total of \$6,300 statewide. School boards costs are estimated at a total of \$7,300 and colleges and universities at \$500 for transmittal of completed voter registration application forms.
- 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 agencies.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no effect or economic benefits which can be calculated as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of this rule.

Carol H. Guidry
Assistant Commissioner of Management
and Finance
9409#066

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Elections and Registration
Commissioner of Elections**

**Voter Registration at Driver's License
Facilities (LAC 31:II.Chapter 5)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority vested in the commissioner of elections by Section 114 of Title 18 of the Louisiana Revised Statutes of 1950, the commissioner of elections is hereby giving notice of intent to amend rules and regulations for the registration of voters at driver's license facilities.

**Title 31
ELECTIONS**

Part II. Voter Registration

**Chapter 5. Voter Registration at Driver's License
Facilities**

§501. Objective

The objective of these rules and regulations is to provide a uniform method of conducting training for any employee authorized to accept voter registration applications at driver's license facilities; to provide for voter registration at driver's license facilities which is impartial, equitable and in the best interest of the citizens of Louisiana; and to provide for an annual review to monitor the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:606 (July 1990), amended LR 20:

§503. Commissioner of Elections

It will be the policy of the commissioner of elections to facilitate the implementation and support of the program for voter registration at driver's license facilities. The commissioner of elections will coordinate the activities of the parish registrars of voters with the Department of Public Safety and Corrections, and for that purpose he shall:

1. provide the Department of Public Safety and Corrections with updates on the names and addresses of the parish registrars of voters;
2. provide to the Department of Public Safety and Corrections standard notices to be displayed informing the

public of the availability of voter registration at driver's license facilities and the eligibility requirements for registration;

3. design in conjunction with the Department of Public Safety and Corrections the computer generated voter registration application form and provide mail voter registration applications to be used under emergency and unusual situations;

4. provide training materials to be used for voter registration; and

5. prepare a biannual report as required by the Federal Election Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by Department of Elections and Registration, Commissioner of Elections, LR 16:606 (July 1990), amended LR 20:

§505. Parish Registrars of Voters

It is the intention of the parish registrars of voters to cooperate to their fullest extent in the registration of voters at driver's license facilities. In that regard, parish registrars shall:

1. notify the office of the commissioner of elections immediately of any change in the office mailing address of the registrar of voters;

2. upon receipt in the registrar's office of a voter registration application form from any driver's license facility located within his parish, indicate date received on the application;

3. determine the parish in which the applicant seeks to register or if already registered seeks to change his name or address and, if not his parish, route to the appropriate registrar of voters;

4. review such voter registration application form and register applicant if sufficient information is provided. Notify applicant of registration. If insufficient information is provided, send notice to applicant at the address provided on the application informing the applicant that he has ten days from the date on which the notice was mailed to appear in the registrar's office to provide the needed information. Register applicant upon receipt of needed information and mail notice of registration to applicant. The eligibility of an applicant to vote in a particular election will be based upon the completion of the registration process by the registrar of voters prior to the close of the registration books for that particular election; and

5. if change of name or change of address, process such change and mail a new voter identification card to the voter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:606 (July 1990), amended LR 20:

§507. Authorized employees at Driver's License Facilities

A. Qualifications. An authorized employee at a driver's license facility shall possess the following qualifications:

1. The person shall be an official or employee of the Department of Public Safety and Corrections who is employed at a department facility for the issuance of driver's licenses or identification cards.

2. The person shall have received in-service training.
3. The person shall not participate or engage in any political activity except to exercise his right as a citizen to express his opinion privately and to cast his vote as he desires.
4. The person shall not have been convicted of any election offense.
5. The person shall not be a candidate for public office.

B. Duties. An authorized employee at a driver's license facility shall perform the following duties:

1. During regular working hours, an authorized employee shall offer voter registration to any individual who obtains, renews, or changes the name or address on a driver's license or identification card and who meets the following requirements:

- a. A person who is at least 17 years of age and who is an actual resident of the state, parish, and precinct in which he seeks to register to vote. A person 17 years old will not be eligible to vote until the age of 18.
- b. A person who is not under an order of imprisonment for conviction of a felony as defined in R.S. 18:2(2).
- c. A person who has not been interdicted after being declared to be mentally incompetent.
- d. A person who is a United States citizen.

2. An authorized employee shall allow an applicant, who meets the above requirements and who resides at more than one place in the state with an intention to reside there indefinitely, to choose which residence will be used for registration purposes.

3. An authorized employee shall provide assistance to any applicant who would require assistance in registering to vote. Such assistance shall consist of the same assistance provided by a parish registrar of voters under the provisions of R.S. 18:106.

4. An authorized employee shall require the applicant to provide sufficient information to establish his age, identity, and residency.

5. An authorized employee shall require an applicant to indicate "None" on the application form if the applicant does not declare a party affiliation.

6. An authorized employee shall insure that the information provided on the voter registration application is legible and to the best of his knowledge accurate and complete.

7. An authorized employee shall administer any oath required on the voter registration application as authorized by R.S. 18:114(F)(7) and shall sign and date the application.

8. An authorized employee shall inform the applicant that the applicant is not officially registered to vote until the application has been received and approved by the parish registrar of voters. Upon approval by the registrar of voters, a voter identification card will be mailed to the applicant.

9. An authorized employee shall insure that the completed voter registration application is made available to the designated person who will be responsible for transmittal to the parish registrar of voters for the parish in which the driver's license facility is located. The date of transmittal shall be indicated on the application, and the transmittal shall be made within five working days of the completion of the application form unless the application is accepted within five

days before the last day for registration then the application form shall be transmitted at the conclusion of each business day.

10. An authorized employee shall request of any person making a change of name or a change of address on a driver's license or identification card if such change is to be used for voter registration purposes. If affirmed, such change shall be transmitted in the same manner as a voter registration application form.

11. An authorized employee shall keep any declinations to register confidential.

C. Offenses. No person authorized to accept voter registration application forms shall knowingly, willfully, or intentionally:

1. offer, promise, solicit or accept money or anything of present or prospective value to secure or influence a vote or registration of a voter;

2. forge, alter, deface, destroy, or remove from proper custodial care any application for voter registration; or

3. intimidate, directly or indirectly, any prospective voter in matters concerning registration or nonregistration.

D. Penalties

1. Any authorized employee who commits an offense as provided herein shall be subject to the penalties provided in R.S. 18:1461.

2. Any authorized employee who fails to comply with the provisions of law relative to registration at driver's license facilities shall be subject to the penalties established in R.S. 18:114(H).

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114, R.S. 18:2(2), R.S.18:62, R.S. 18:101, R.S. 18:102, R.S. 18:105, R.S. 18:106 and R.S. 18:1461.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:607 (July 1990), amended LR 20:

§509. Training

A. The Department of Elections and the registrar of voters shall train designated personnel of the Department of Public Safety and Corrections. In-service training will be provided to all employees authorized to accept voter registration application forms by these personnel.

B. The training shall include but shall not be limited to the following:

1. review responsibility of an authorized employee to offer voter registration;

2. conduct study of the voter registration application with special emphasis on problem areas;

3. discuss information which may be used to establish applicant's age, identity, and residency;

4. discuss assistance that may be provided to applicant;

5. review responsibilities of an authorized employee in insuring accuracy and legibility of voter registration application and stressing the authorized employee's responsibility for informing the applicant that the applicant is not registered until the parish registrar notifies the applicant of registration;

6. review transmittal requirements;

7. review offenses; and

8. review penalties established in R.S. 18:114(H) for noncompliance with the provisions of law relative to voter

registration at driver's license facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114 and R.S. 18:104-18:106

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:608 (July 1990), amended LR 20:

§511. Review Process

An annual meeting between the office of commissioner of elections and the Department of Public Safety and Corrections shall be held during the month of February of each year to monitor any problem areas where changes in rules and regulations or the revised statutes may be necessary. The annual meeting may be discontinued upon mutual agreement when it is felt there is no longer a need to continue to hold such meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:608 (July 1990), amended LR 20:

§513. Implementation

In a letter dated October 11, 1989, the United States Justice Department has advised the commissioner of elections that any rules and regulations adopted relative to the implementation of the program of registering voters at driver's license facilities will require preclearance by the United States Justice Department under the requirements of Section 5 of the Voting Rights Act. The provisions of Section 114 of Title 18 relative to voter registration at driver's license facilities have been amended by Act 10 of the Third Extraordinary Session of the 1994 Louisiana Legislature. The provisions of the Act provide an effective date of January 1, 1995. The final date of implementation of the amended rules and regulations shall be determined by whichever date, preclearance or January 1, 1995, is the later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:608 (July 1990), amended LR 20:

Interested persons may submit written comments on the amended rules and regulations until 4:30 p.m. on November 4, 1994, at the following address: Jerry M. Fowler, Commissioner, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179. All interested persons will be afforded an opportunity to present their views in writing.

Jerry M. Fowler
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Voter Registration at Driver's
License Facilities**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The cost to the Department of Elections and Registration is estimated at \$7,000 and \$2,300 to the Department of Public Safety and Corrections. The cost to the Department of Elections

includes printing of signs, supplemental voter registration applications and in-service materials. The Department of Elections will be responsible for the initial distribution costs of applications and in-service training. The costs to the Department of Public Safety and Corrections will be in postage for transmittals.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There is no economic benefit which can be calculated as a result of this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no effect on competition as a result of the rule.

Carol H. Guidry
Assistant Commissioner
of Management and Finance
9409#026

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Fee System (LAC 33:III.223) (AQ101)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.223 (AQ101).

Chapter 2 sets forth rules and regulations for the fee system of the Air Quality Control Programs. It is the purpose of these regulations to establish a fee system for funding the monitoring, investigation, and other activities required to be conducted for the maintenance of a safe and healthful environment by the Department of Environmental Quality (DEQ) in accordance with the Louisiana Environmental Quality Act. Fees are required for all permits, licenses, registrations, and variances authorized by the act. New programs and associated fees will necessitate these proposed changes in Chapter 2.

The Lead Abatement Program is required by R.S. 30:2351 through 2351.60, Act No.224 of the 1993 Regular Legislative Session. Act 570 of this session requires the DEQ to establish an emissions banking program by September 1, 1994 in the six-parish ozone nonattainment area surrounding East Baton Rouge. This rule also allows Calcasieu Parish (classified as marginal for ozone nonattainment) to participate. Section 182 (b)(1) of the 1990 Clean Air Act Amendments (CAAA) required all ozone nonattainment areas classified as moderate and above to submit a Reasonable Further Progress Plan (RFP) by November 15, 1993, which describes how the area will achieve an actual volatile organic compounds (VOC) emission reduction of at least 15 percent during the first six

years after enactment of the CAAA. The Emissions Banking Rule is part of the Contingency Measures for the 15 percent VOC Reduction RFP.

These proposed regulations will become effective upon publication in the *Louisiana Register*.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

* * *

[See Prior Text in Fee Number 0010-1711]

ADDITIONAL PERMIT FEES AND ADVF FEES		
Fee Number	Fee Description	Amount
* * * [See Prior Text in Fee Number 2000-2040]		
2041	Agent Accreditation for Lead: Includes Supervisor, Inspector, or Lead Hazard Reduction Planner-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	200.00
* * * [See Prior Text in Fee Number 2050]		
2051	Agent Accreditation for Lead: Includes Supervisor, Inspector, or Lead Hazard Reduction Planner-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	300.00
* * * [See Prior Text in Fee Number 2060]		
2061	Worker Accreditation for Lead-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	50.00
2062	Lead Contractor License Approval Application Fee	250.00
* * * [See Prior Text in Fee Number 2070]		
2071	Worker Accreditation for Lead-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	75.00
* * * [See Prior Text in 2080-2620]		
2800	An application fee for mobile sources emissions banking (auto scrappage)	50.00
2810	An application fee for point source emissions banking. Not applicable when filing application with a new permit or permit modification.	50.00

* * *

[See Prior Text in Explanatory Notes 1-16]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987, amended LR 14:613 (September 1988), LR 15:735 (September 1989), LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1419 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:

A public hearing will be held on October 28, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, October 28, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486. Commentors should reference this proposed regulation by the Log AQ101.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fee System of Air Quality Control**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Expenses for the Lead Program are estimated at \$343,075. Expenses for the Banking Program are estimated at \$46,800.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated annual revenue collection by the state for the Lead Program is \$307,600. The lead hazard abatement individual certification fees in the interim regulations were multiplied times the current numbers of asbestos abatement professionals. It is anticipated that most, if not all, of these same individuals will pursue work in the lead abatement field, or, at least, that the population in those two fields should be comparable. In addition to fees collected, the Lead Program is being funded by a grant of \$200,000 from HUD. This grant is to be received over a two year period, thus \$100,000 each year. An additional grant of \$88,944 (annually renewable) from EPA is expected in the Autumn of 1994.

It is anticipated that 936 applications will each generate a \$50 fee to support the state's cost of the Emissions Banking Program. State revenue is estimated to increase \$46,800 in FY 94-95. Also, the Emissions Banking Program will generate additional revenue for the Department of Public Safety and Corrections through issuance of title transfers and dismantling certificates for autos.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated cost to affected persons or nongovernmental groups by the Lead Program is estimated to be \$307,600

initially, decreasing to \$266,350 in subsequent years. These figures reflect certification and one-time license approval application fees for individuals. Additionally, an expenditure of \$1,184,500 is estimated as the cost of initial training for these individuals, decreasing to \$355,350 in subsequent years for refresher training.

Relative to the Emissions Banking Program. Point source facilities will experience an increase in costs associated with the application fee and the purchase of mobile emission credits. These same point source facilities could realize economic benefit through the sale of point source emission credits to other facilities wishing to expand in the ozone nonattainment area. Participation in the mobile emissions banking is voluntary. The owners of older model cars participating in the program will receive a minimum of \$450. The owners of automobile crushing equipment participating in the program will profit through the sale of the scrap metal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The estimated effect on competition in the Lead Program is expected to be positive, due to an increasing pool of trained, certified, and/or licensed lead abatement professional, and overall employment is expected to benefit from the certification and licensure regulations.

Relative to Emissions Banking Program, auto salvage yards will not benefit from participating in this mobile emissions banking; consequently, only auto crushing businesses will be able to see an economic value. This will limit competition. There will be no significant impact on employment in either the governmental or the nongovernmental agencies/businesses.

Gus Von Bodungen
Assistant Secretary
9409#076

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Permit Procedures (LAC 33:III.501-533) (AQ102)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 5 (AQ102).

The rule revisions will ensure that: 1) no air quality permit will be held confidential; 2) DEQ will retain records for five years; 3) all required elements will be included in all Part 70 permits; 4) DEQ does not grant federal enforceability to "state only" administrative amendments; 5) compliance measures are properly incorporated into permits; 6) acid rain permits are submitted by federal deadlines; and 7) no major source will be exempted from Part 70 requirements.

Chapter 5 incorporates air quality permit procedures to meet the requirements of the mandated federal Operating Permit Program under Title V of the Clean Air Act Amendments. The Environmental Protection Agency is reviewing the

Louisiana rule and has determined that these revisions are needed prior to granting full approval.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

* * *

[See Prior Text in A-B.6.e]

7. Research and Development Facilities. The permitting authority may allow a research and development facility to be considered as a separate source with regard to the requirements of this Chapter, provided that the facility has a different two-digit Standard Industrial Classification (SIC) code from, and is not a support facility of, the source with which it is co-located.

* * *

[See Prior Text in C-C.9]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:

§507. Part 70 Operating Permits Program

* * *

[See Prior Text in A-B.1]

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

* * *

[See Prior Text in C-C.1.a]

b. Notwithstanding the time periods for application submittal established in Subsection C.1 and 1.a of this Section, permit applications for affected phase II sources under the federal Acid Rain Program shall be submitted by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides. For any affected source under the federal Acid Rain

Program, permit applications shall be submitted in accordance with 40 CFR 72.30(b)(2)(iii) through (viii).

[See Prior Text in C.1.c-J.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:

§517. Permit Applications and Submittal of Information

[See Prior Text in A-F]

1. Non-disclosure Must be Requested. All information obtained under the Louisiana Environmental Quality Act (the Act) R.S. 30:2001 et seq. or these regulations; by any order, license, or permit term or condition adopted or issued under the Act or these regulations; or by any investigation authorized thereby shall be available to the public, unless non-disclosure is requested and granted in accordance with R.S. 30:2030. Claims of confidentiality for any data regarding air emissions will be denied. No permit or portion of a permit issued to a source in accordance with LAC 33:III.507 shall be held confidential.

[See Prior Text in F.2-G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:

§521. Administrative Amendments

[See Prior Text in A-A.5]

6. incorporates state-only changes to terms and conditions which are not federally enforceable under 40 CFR Part 70 and which the permitting authority determines to be similar in nature to the changes listed in this Subsection.

[See Prior Text in B-B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:

§527. Significant Modifications

A. Significant Modification Criteria

2. At a minimum, any change which meets the following criteria shall require significant modification procedures:

c. the change is a relaxation of reporting or recordkeeping permit terms and conditions.

B. Significant Modification Procedures

[See Prior Text in B.1-B.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:

§533. EPA Notice, Review, and Objection

[See Prior Text in A-B.4]

5. The permitting authority shall keep for five years such records and submit to EPA such information as the administrator may reasonably require to ascertain whether the state program complies with the requirements of the Federal CAA of 40 CFR Part 70.

[See Prior Text in C-E.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:

A public hearing will be held on October 28, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, October 28, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486. Commentors should reference this proposed regulation by the Log AQ102.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Permit Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Any costs to local governmental groups associated with the proposed amendments, including workload and paperwork requirements, were already accounted for in the fiscal statement for AQ 70, June 20, 1993. No additional costs are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any costs to affected persons and nongovernmental groups associated with the proposed amendments were already

accounted for in the fiscal statement for AQ 70, June 20, 1993. DOW and Union Carbide provided cost estimates at that time that reflected the cost of additional recordkeeping and maintenance of records.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No such impacts are anticipated. The Operating Permits Program is a national program affecting all major sources.

Gus Von Bodungen
Assistant Secretary
9409#071

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Use of Incidental VOC (LAC 33:III.2120) (AQ103)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 21 (AQ103).

The purpose of promulgating this change to Chapter 21 is to remove a redundant requirement for a permit application submitted to the department. Section 182 (b)(1) of the 1990 Clean Air Act Amendments (CAAA) required all ozone nonattainment areas classified as moderate and above to submit a Reasonable Further Progress Plan (RFP) by November 15, 1993, which describes how the area will achieve an actual volatile organic compound (VOC) emission reduction of at least 15 percent during the first six years after enactment of the CAAA. The 1996 target level of emissions is the maximum amount of ozone season VOC emissions that can be emitted by an ozone nonattainment area in 1996 for that nonattainment area to be in compliance with the 15 percent RFP requirements. The use of incidental VOC reductions is part of the Contingency Measures for the 15 percent VOC Reduction RFP. Since affected sources will be developing permit applications to comply with the newly revised permit rules under Chapter 5 of the Air Quality rules, a requirement for submittal of a permit application under Chapter 21 is not needed.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds §2120. Use of Incidental VOC Reductions to Demonstrate Reasonable Further Progress

* * *

[See Prior Text in A]

B. Emission reductions of VOCs achieved after November 15, 1990, through compliance with air toxic maximum achievable control technology (MACT) standards and ambient

air standards (AAS) pursuant to LAC 33:III.Chapter 51 may be utilized by the Air Quality Division where necessary to demonstrate reasonable further progress (RFP) in accordance with section 182(b)(1) of the Clean Air Act Amendments (CAAA) of 1990. Emission reductions available for use shall be identified by source and tonnage.

C. Upon request by the permitting authority, the owner or operator of each source so identified in the state implementation plan (SIP) shall submit a permit application to incorporate VOC emission reduction measures into the permit. The permit application shall be submitted to the department within 90 days of a request by the permitting authority and shall contain all information required by LAC 33:III.517, including all information relative to the VOC emission reductions to be obtained through compliance with MACT and AAS. The permit application shall also include a compliance schedule for obtaining VOC emission reductions through the application of MACT (or compliance with AAS) as determined by the department pursuant to LAC 33:III.Chapter 51 and shall include compliance provisions specific to the source, including requirements and deadlines for compliance certification, testing, monitoring, reporting, and recordkeeping, which will meet the criteria specified in 40 CFR 70.6(a)(3) and LAC 33:III.507.H and which will ensure that the reductions are maintained. The compliance schedule will have the force of a regulation pending issuance of a permit. Failure to comply with the provisions of the compliance schedule once approved by the department may result in enforcement action by EPA pursuant to the federal Clean Air Act or by DEQ pursuant to R.S. 30:2025.

D. Permit limits, terms, and conditions reflecting the emission reductions and corresponding compliance schedules and compliance measures shall be incorporated in a federally enforceable permit issued by the department in accordance with LAC 33:III.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:537 (May 1994), amended LR 20:

A public hearing will be held on October 28, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, October 28, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486. Commentors should reference this proposed regulation by the Log AQ103.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Use of Incidental VOC

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no significant impact to either costs or savings resulting from the edit of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no revenue collection associated with this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact on competition and employment.

Gus Von Bodungen
Assistant Secretary
9409#075

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity

Actuarial Apportionment of Cost of Living Adjustments

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity ("fund"), pursuant to R.S. 11:3363(F), proposes to adopt rules and regulations applicable to actuarial apportionment of cost of living adjustments between members retiring under the new system and their beneficiaries in accordance with the provisions of R.S. 11:3382 and R.S. 11:3385.

Rule I. Definitions

A. *Actuarial Equivalent Option ("Option 4")*—a reduced annuity payable to the member over the member's life with a survivor annuity payable to the member's beneficiary for life, provided the total benefit payable is the actuarial equivalent of the member's service retirement benefit, as further provided under R.S. 11:3385.

B. *Beneficiary*—the person(s) designated in a written designation filed with the Board of Trustees on or before the member retires under the new system to receive any survivor benefits payable under R.S. 11:3385.

C. *Cost of Living Adjustments ("COLAs")*—the amount annually determined and authorized to be awarded in accordance with R.S. 11:3382, as amended from time to time.

D. *50 Percent Survivor Annuity Option ("Option 3")*—a reduced annuity payable to the member on a monthly basis for his life with a 50 percent survivor annuity payable monthly to the member's beneficiary for the life of the beneficiary, as further provided under R.S. 11:3385.

E. *Joint and Survivor Annuity Option ("OPTION 2")*—a reduced annuity, actuarially calculated, based on the joint life expectancy of the member and the member's beneficiary, payable to the member monthly during his life and continuing

monthly after his death in the same amount to the member's beneficiary for the life of the beneficiary, as further provided under R.S. 11:3385.

F. *Member*—a new system member who retires on or after July 1, 1995.

G. *Reduced Annuity With Lump Sum Option ("Option 1")*—a reduced annuity payable to the member monthly for his life with the unpaid balance of the actuarial value of the member's accumulated contributions, payable as a lump sum to the member's beneficiary after his death, as further provided under R.S. 11:3385.

H. *Single Life Annuity Option*—a single life annuity payable to the member on a monthly basis for the duration of his life, with no survivor benefits, as further provided under R.S. 11:3385.

Rule II. Apportionment of Cost of Living Adjustments ("COLAs")

A. Any member under the new system who retires on or after July 1, 1995 and whose payment of retirement benefits is subject to R.S. 11:3385 shall be awarded an actuarial Cost of Living Adjustment ("COLA"), which amount shall be apportioned between the member and his beneficiary in accordance with the terms and conditions provided herein.

B.1. The COLA awarded to the member under R.S. 11:3382 shall be automatically apportioned, in the manner described under Section III below, between the member and his beneficiary designated to receive the member's survivor benefit under the following optional forms of payment under R.S. 11:3385:

a. the Joint and Survivor Annuity Option (Option 2);
or

b. the 50 Percent Survivor Annuity Option (Option 3).

2. Upon the death of the member, the beneficiary designated to receive the survivor benefit paid in the form of a Joint and Survivor Annuity Option (Option 2) or a 50 Percent Survivor Annuity Option (Option 3) shall not be entitled under R.S. 11:3382 to receive any further COLA increases after the member's death in accordance with these rules and regulations, unless otherwise provided by Louisiana law.

3. If the beneficiary designated to receive the survivor benefit paid in the form of a Joint and Survivor Annuity Option (Option 2) or a 50 Percent Survivor Annuity Option (Option 3) predeceases the member, the automatic apportionment of the COLA, actuarially calculated in accordance with Section III below, shall cease and the member shall be prospectively entitled to the full COLA increase awarded under R.S. 11:3382 just as if the member selected the Single Life Annuity Option. Any COLA increases apportioned to the beneficiary prior to the beneficiary's death shall under no circumstances revert back to the member, but shall be forfeited in a manner consistent with the forfeiture of the survivor benefits awarded under R.S. 11:3385.

C. The COLA awarded to the member under R.S. 11:3382 shall not be apportioned between the member and his beneficiary designated to receive the member's survivor benefit if the member selects the following optional forms of benefit payments under R.S. 11:3385:

1. the Single Life Annuity Option;
2. the Reduced Annuity With Lump Sum Option (Option

1); or

3. any Actuarial Equivalent Option elected under Option 4, unless the member otherwise elects in a manner consistent with R.S. 11:3385, Option 4.

D. A new system member who retires on or after July 1, 1995 may elect to waive his right to actuarially calculate and apportion his COLA increases and elect to have his retirement benefits paid in the form of a Joint and Survivor Annuity Option (Option 2) or a 50 Percent Survivor Annuity Option (Option 3), without the actuarial COLA apportionment as provided under these rules and regulations, by electing to have his benefits paid in the form of an Actuarial Equivalent Option (Option 4), provided the following conditions are satisfied:

1. The member must obtain approval from the board concerning the member's election of an Actuarial Equivalent Option (Option 4) in a manner consistent with R.S. 11:3385, Option 4.

2. The member's beneficiary designated to receive his survivor benefits must consent to the waiver of the actuarial COLA apportionment and the member's election to receive his benefit in the form of an Actuarial Equivalent Option.

3. The beneficiary must acknowledge the effect of such waiver and the member's election after receipt of a written explanation concerning the beneficiary's rights and waiver of the actuarial COLA apportionment.

Rule III. Calculation of the COLA Apportionment

A. The actuarial apportionment of the COLA increases awarded under R.S. 11:3382 from time to time shall be calculated as follows:

1. The member's retirement benefit shall be actuarially calculated in accordance with the optional form of benefit payment selected under R.S. 11:3385.

2. The member's COLA award for the plan year in question shall be calculated based on the original maximum benefit payable in the form of the Single Life Annuity Option and shall not include any COLA increases previously awarded during prior plan years.

3. If a member selects the Joint and Survivor Annuity Option (Option 2) or the 50 Percent Survivor Annuity Option (Option 3), as further provided under R.S. 11:3385, the COLA increases awarded each plan year shall be actuarially apportioned between the member and his beneficiary based on the member's and beneficiary's life expectancy at the time the COLA is awarded and the applicable factors used to calculate the optional form of benefit selected, i.e., the Joint and Survivor Annuity Option (Option 2) or the 50 Percent Survivor Annuity Option (Option 3). The amount of the actuarial COLA apportionment shall be added to the actuarial equivalent benefit calculated under Option 2 or Option 3.

4. Upon the member's death and in accordance with the optional forms of benefits selected under R.S. 11:3385, the beneficiary shall receive a survivor benefit, including the actuarial amount of the COLA apportionment, based on the member's retirement benefit at death. The beneficiary shall not be entitled to any COLA increases after the member's death in accordance with these rules and regulations, unless otherwise provided by Louisiana law.

B. The COLA award shall be actuarially apportioned as follows:

Case 1. The member is eligible to receive \$1,000 per month in maximum benefits payable as a Single Life Annuity. He elects to receive Option 2, the Joint and Survivor Annuity Option. The member retires at age 50 with his spouse as beneficiary at age 45. The member predeceases his beneficiary spouse.

Year 1—The member's Joint and Survivor Annuity Benefit equals $\$1,000 \times 0.85883 = \858.83 per month (Joint and Survivor 100 percent Annuity).

Year 2—3 percent COLA is granted for which he qualifies.

He receives $\$858.83 + (.03 \times \$1,000 \times .85229) = \$884.40$.

Year 3—3 percent COLA is granted to which he qualifies.

He receives $\$884.40 + (.03 \times \$1,000 \times .84559) = \$909.77$.

Year 4—The member dies before another actuarial COLA is granted and apportioned. The beneficiary spouse will receive \$909.77 per month for life with no future COLA increases under these rules and regulations, unless otherwise provided by Louisiana law.

Case 2. The member is eligible to receive \$1,000 per month in maximum benefits payable as a Single Life Annuity. He elects to receive Option 2, the Joint and Survivor Annuity Option. The member retires at age 50 with his spouse as beneficiary at age 45. The beneficiary spouse predeceases the member.

Year 1—The member's Joint and Survivor Annuity Benefit equals $\$1,000.00 \times .85883 = \858.83 per month (Joint and Survivor 100% Annuity).

Year 2—3 percent COLA is granted for which he qualifies.

He receives $\$858.83 + (.03 \times \$1,000 \times .85229) = \$884.40$.

Year 3—3 percent COLA is granted for which he qualifies.

He receives $\$884.40 + (.03 \times \$1,000 \times .84559) = \$909.77$.

Year 4—The beneficiary spouse dies and the member survives, and another 3 percent COLA is granted. Since the beneficiary spouse predeceases the member, the member prospectively receives the full COLA award just as if he selected the Single Life Annuity Option.

He receives $\$909.77 + (.03 \times \$1,000) = \$939.77$.

The beneficiary spouse's survivor benefit, including any previous actuarial COLA apportionments, are forfeited and do not revert back to the member.

Case 3. The member is eligible to receive \$1,000 per month in maximum benefits payable as a Single Life Annuity. He elects to receive Option 3, the 50 Percent Survivor Annuity Option. The member retires at age 50 with his spouse as beneficiary at age 45. The member predeceases his beneficiary spouse.

Year 1—The member's 50 Percent Survivor Annuity Benefit equals $\$1,000 \times .92406 = \924.06 per month (Joint and Survivor 50 Percent Annuity).

Year 2—3 percent COLA is granted for which he qualifies.

He receives $\$924.06 + (.03 \times \$1,000 \times .92025) = \$951.67$.

Year 3—3 percent COLA is granted for which he qualifies.

He receives $\$951.67 + (.03 \times \$1,000 \times .91634) = \$979.16$.

Year 4—The member dies before another actuarial COLA is granted and apportioned. The beneficiary spouse will receive 50 percent of $\$979.16$ per month, or $\$489.58$ per month, for life with no future COLA increases under these rules and regulations, unless otherwise provided by Louisiana law.

Case 4. The member is eligible to receive $\$1,000$ per month in maximum benefits payable as a Single Life Annuity. He elects to receive Option 3, the 50 Percent Survivor Annuity Option. The member retires at age 50 with his spouse as beneficiary at age 45. The beneficiary spouse predeceases the member.

Year 1—The member's 50 Percent Survivor Annuity Benefit equals $\$1,000 \times .92406 = \924.06 per month (Joint and Survivor 50 Percent Annuity).

Year 2—3 percent COLA is granted for which he qualifies.

He receives $\$924.06 + (.03 \times \$1,000.00 \times .92025) = \951.67 .

Year 3—3 percent COLA is granted for which he qualifies.

He receives $\$951.67 + (.03 \times \$1,000.00 \times .91634) = \979.16 .

Year 4—The beneficiary spouse dies and the member survives, and another 3 percent COLA is granted. Since the beneficiary spouse predeceases the member, the member prospectively receives the full COLA award just as if he selected the Single Life Annuity Option.

He receives $\$979.16 + (.03 \times \$1,000) = \$1,009.16$

The beneficiary spouse's survivor benefit, including any previous actuarial COLA apportionments, are forfeited and do not revert back to the member.

Rule IV. Application of the COLA Apportionment

A. The apportionment of the actuarial COLA shall apply if the member selects the following optional forms of benefit payments under R.S. 11:3385:

1. the Joint and Survivor Annuity Option (Option 2); and
2. the 50 Percent Survivor Annuity Option (Option 3).

B. The apportionment of the actuarial COLA shall not apply as to the following elections made under R.S. 11:3385:

1. The member selects the following optional forms of benefit payments:

- a. the Single Life Annuity Option;
- b. the Reduced Annuity with Lump Sum Option (Option 1); or
- c. any Actuarial Equivalent Option elected under Option 4, unless he otherwise elects in a manner consistent with R.S. 11:3385, Option 4.

2. Any survivor benefits paid to a surviving widow or child of an old system member.

3. Any death benefits under R.S. 11:3361 et seq. payable to any survivor of the deceased firefighter.

Rule V. Effective Date

These rules and regulations shall be prospectively effective and shall apply to all members who retire on or after July 1, 1995 under the new system.

Rule VI. Sunset Provision

If the enabling statute is amended to award full COLA increases to Beneficiaries in their own right, the Board of Trustees reserves the right to prospectively repeal the application of these rules and regulations.

A public hearing will be conducted by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity at 10 a.m. on October 12, 1994 at 329 South Dorgenois Street, New Orleans, LA 70119.

Any interested party may submit data, views or arguments orally or in writing concerning these rules or may make inquiries concerning the adoption of these rules to Bernard V. Nicolay, Secretary-Treasurer of the Board of Trustees, 329 South Dorgenois Street, New Orleans, LA 70119.

William M. Carrouché
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Actuarial Apportionment of Cost of Living Adjustments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only estimated implementation cost which is anticipated will be the cost of printing and distributing copies of the proposed rules and regulations to persons making a request for a copy of same. Copying cost (if every participant in the Firefighters' Pension and Relief Fund requested one copy) is estimated to be $\$450.72$.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption and implementation of the rules and regulations for apportionment of cost of living adjustments should not have any effect on revenue collection of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rules and regulations require that the annual COLA increases be actuarially apportioned between the members under the new system and their beneficiaries. The actuarial apportionment of the COLA increase will be calculated based on the member's original benefit payable in the form of a single life annuity option. The COLA increases will be actuarially apportioned based on the optional form of benefit payment selected by the member, the member's and beneficiary's life expectancy at the time the COLA is awarded and the applicable factors used to calculate the optional form of benefit payment selected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption and implementation of rules and regulations for apportionment of cost of living adjustments should not have any effect on competition and employment.

Jeanne Cresson
Fund Counsel
9409#029

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Board Certified Social Work Examiners

Fees (LAC 46:XXV.119)

The State Board of Board Certified Social Work Examiners proposes to adopt the following rule establishing an administrative fee to be assessed of Board Certified Social Workers who are sanctioned by the board for violation of the Social Work Practice Act and/or the board's rules, regulations and procedures.

R.S. 37:2712 allows the board to set fees for any administrative function provided for in the law. The board proposes to assess sanctioned licensees for all costs incurred in connection with disciplinary sanction, including but not limited to investigators', stenographers', and attorneys' fees.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXV. Certified Social Workers

Chapter 1. General Provisions

§119. Fees

* * *

N. The board may assess all costs incurred in connection with disciplinary actions, including but not limited to investigators', stenographers', attorneys' fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2712.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Board Certified Social Work Examiners, LR 10:204 (March 1984), amended by the Department of Health and Hospitals, Board of Board Certified Social Work Examiners, LR 20:

Interested persons may submit written comments to the following address: Suzanne L. Pevey, State Board of Board Certified Social Work Examiners, Box 345, Prairieville, LA, 70769. She is the person responsible for responding to inquiries regarding this proposed rule.

Suzanne L. Pevey
Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Administrative Fee - Disciplinary Proceedings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The cost for implementation of this rule will be approximately \$3,000 initially to cover the clerical cost, printing and postage for mailing the proposed rule to all licensed Board Certified Social Workers in the state of Louisiana. The only cost after implementation will be minor to invoice sanctioned, disciplined BCSWs for the cost of the disciplinary proceedings. There will be no additional personnel needed to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board will realize revenues of approximately \$20,000

annually from licensees sanctioned for violations of the Practice Act, by assessing them for the actual cost of disciplinary proceedings. The revenues will offset the actual expenses for investigations and hearings of complaints filed against Board Certified Social Workers in the state of Louisiana. The revenue figure is based on an average of the board's expenses for the past four years to include investigation fees, court reporter, legal counsel, and board member travel, directly related to disciplinary actions. The board has been notified by the Attorney General's office that they will begin charging the board for their representation in disciplinary proceedings on behalf of the state of Louisiana. The fee for this service will be an added expense to the board's cost for disciplinary hearings and with the implementation of this rule, will also be passed on to sanctioned licensees. The board estimates that the annual fee from the Attorney General's office will be approximately \$10,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Board Certified Social Workers (BCSWs), sanctioned in disciplinary hearings, will be charged through an administrative fee for all administrative costs incurred by the board in the disciplinary proceedings. The fee will include, but will not be limited to, investigator's fee, legal fees, and court reporter. The cost to BCSWs will vary depending on the nature of the allegations and the sanctions imposed by the board. The cost will also depend on the extent of litigation, i.e., whether the matter is appealed and to which court(s) (district court, court of appeals, supreme court). Based on the past four years, the cost incurred by the board has ranged from \$1,500 to \$12,000 per case.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will have no effect on competition or employment of Board Certified Social Workers.

Suzanne L. Pevey
Administrator
9409#060

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Funeral Establishments (LAC 46:XXXVII.1107)

In accordance with the applicable provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:840, notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors intends to amend LAC 46:XXXVII.Chapter 11, Funeral Establishments.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 11. Funeral Establishments

§1107. Inspection

* * *

B. Each establishment must consist of and be inspected for an adequate building containing a display room, which must contain a minimum of six adult caskets, embalming room, office or arrangement room, rest rooms (separate for men and women), parlors or chapel. They shall also contain furnishings, equipment and other facilities that meet the standards of the board. New establishments, a change of ownership on existing establishments and/or location changes of existing establishments must meet the above requirements and, in addition thereto, must supply to the board approved certificates which reflect that their building meets the standards of the Fire and Sanitary Codes of the state of Louisiana, as well as all city, parish and state licensing and zoning requirements, prior to licensure.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended November 1972, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 4:356 (September 1978), LR 4:510 (December 1978), LR 5:278 (September 1979), LR 6:615 (October 1980), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors LR 20:191 (February 1994), LR 20:

Inquiries concerning the proposed rule may be directed in writing to Dawn P. Scardino, Executive Director, at the address below.

Interested persons may submit written comments, data, views or arguments no later than 60 days from the date of this notice to the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011-8757. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Dawn Scardino
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Funeral Establishments**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
No costs or savings to the board are expected.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
No effect on revenue collections of state or local governmental units anticipated.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
There are no economic benefits. The only costs to directly affected persons applying for licensure as a funeral home would be those necessary to comply with all requirements and regulations as they pertain to the standards of the fire and sanitary codes of the state of Louisiana, as well as those of the city, parish and state licensing and zoning authorities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No known impact on competition or employment within the state of Louisiana.

Dawn P. Scardino
Executive Director
9409#012

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

Continuing Education, Prohibitions, Fees
(LAC 46:LIV.Chapters 1, 3, 5)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Physical Therapy Examiners (board), pursuant to the authority vested in the board by R.S. 2401.2A(3), intends to amend its existing rules as set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LIV. Louisiana State Board of
Physical Therapy Examiners**

**Chapter 1. Physical Therapists and Physical Therapists
Examiners**

Subchapter I. Continuing Education

§169. Requirements

A. **Minimum Continuing Education Requirements.** Licensees shall document successful completion of 1.2 units, or 12 hours of acceptable clinical, continuing education credit during each annual period.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR:664 (July 1991), LR 19:208 (February 1993), LR 20:

§173. Exemptions

* * *

B. The following groups of licensees may be exempt from compliance with the continuing education requirement:

* * *

2. Louisiana licensees who are unable to fulfill the requirement because of illness or other personal hardship.

C. The board must receive a timely request for an exemption. Such a request shall be considered timely if submitted to the board at least 60 days prior to December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3)

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 20:

Subpart 3. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§303. Definitions

As used in this Chapter, the following terms and phrases shall have the meaning specified:

Board—the Louisiana State Board of Physical Therapy Examiners which shall be domiciled in Lafayette, Lafayette Parish, Louisiana.

License—the lawful authority of a physical therapist or physical therapist assistant to engage in the practice of physical therapy in the state of Louisiana, as evidenced by a certification duly issued by and under the official seal of the board. A temporary permit is not a license.

Licensed Physical Therapist or P.T.—a physical therapist possessing a license issued by the board under Chapter 1 of these rules.

Licensed Physical Therapist Assistant or P.T.A.— a physical therapist assistant possessing a license issued by the board under Chapter 1 of these rules.

Person—includes a natural person, partnership, corporation, association, or other entity having legal existence, unless the context requires a more limited meaning.

Practice Setting—unless otherwise defined the physical address location in which patient care is performed.

Prescription—a request for diagnostic or therapeutic physical therapy procedure or regimen subscribed by an individual lawfully authorized to make or give such order or directive.

Referral—a request for physical therapy evaluation or treatment made by an individual lawfully authorized to make such request.

State—any state of the United States, the District of Columbia, and Puerto Rico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 20:

Subchapter B. Prohibitions

§307. Unauthorized Practice

* * *

B. No person shall hold himself out to the public, an individual patient, a physician, dentist, or podiatrist, or to any insurer or indemnity company or association or governmental authority as a physical therapist, physiotherapist or physical therapist assistant, nor shall any person directly or indirectly identify or designate himself as a physical therapist, physiotherapist, registered physical therapist, licensed physical therapist, physical therapist assistant, or licensed physical therapist assistant, nor use in connection with his name the letters, P.T., L.P.T., R.P.T., or P.T.A. or any other words, letters, abbreviations, insignias, or sign tending to indicate or imply that the person constitutes physical therapy, unless such person possesses a current license or temporary permit duly issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 20:

§323. Documentation Standards

A. A written record of physical therapy provided shall be kept on each patient or client served. A complete record shall include written documentation of prescription or referral, initial evaluation, treatment provided, progress notes, reassessment, and patient status at discharge.

1. A prescription or referral is a written request for physical therapy signed by a qualified practitioner which may initially be a verbal order but must be later confirmed in writing. The verbal order shall be documented by the physical therapist in the patient's record. If the verbal order is not confirmed in writing, then the physical therapist shall send a written communication requesting a written prescription or referral to the prescribing practitioner within fifteen days of commencement of treatment or by the fifth treatment session, whichever occurs first. A copy of the written communication to the prescribing or referring practitioner must be maintained in the patient's record.

2. An initial physical therapy evaluation is the written documentation of patient history, pertinent medical diagnosis, signs, symptoms, objective tests or measurements, and the physical therapist's interpretation of such findings, as well as goals and treatment plan recommendations. The initial physical therapy evaluation shall be documented and signed by the physical therapist performing the evaluation. An initial physical therapy evaluation shall not be documented or signed by a physical therapist assistant or other supportive personnel.

3. Progress note is the written documentation of the patient's subjective status, changes in objective findings, and progression or regression toward established goals. A progress note shall be written and signed by the attending physical therapist or physical therapist assistant and shall not be written or signed by a physical therapy aide/technician. A progress note shall be written a minimum of once per week, or if the patient is seen less frequently, then at every visit.

4. Reassessment is the written documentation which includes all elements of a progress note as well as the interpretation of objective findings with a revision of goals and treatment plan as indicated. A reassessment must be written once per month, or if the patient is seen less frequently, then at every visit. A reassessment shall be written and signed by the attending physical therapist. A reassessment shall not be written or signed by a physical therapist assistant or other supportive personnel.

5. Treatment record is the written documentation of each patient visit which includes specific treatment and/or any equipment provided which shall be signed or initialled by the attending physical therapist or physical therapist assistant. A treatment record shall be maintained only if a progress note is not written for each patient visit. A treatment record may be in the form of a checklist, flow sheet, or narrative.

6. Discharge summary is the written documentation of the reasons for discontinuation of care, degree of goal achievement and a discharge plan which shall be written and signed by the attending physical therapist. A discharge summary shall not be written or signed by a physical therapist assistant or other supportive personnel. A discharge summary shall be written at the termination of physical therapy care.

B. The documentation standards set forth above do not mandate a particular format, however, a complete physical therapy record must include these elements.

C. A signature stamp shall not be used in lieu of a written signature on physical therapy patient records. Forms of electronic signatures which meet Joint Commission on Accreditation of Health Care Organizations (JCAHO) Standards are acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 20:

Subpart 5. Fees

Chapter 5. Fees

§501. Fees

A. The board may collect the following fees:

Examination Fee	\$ 310
Reciprocity Fee	150
Re-examination Fee	285
Re-instatement Fee	75
Annual Renewal of License Fee	75
Verification of Licensure Fee	
Out-of-State	20
Duplicate Wall License Fee	30
Duplicate Billfold License Fee	10

B. Annual renewal fees provided in this Section shall be paid to the board by January 1 of each year.

C. If annual renewal fees are not paid by January 1 of each year, a license will lapse and a reinstatement fee will be charged, in addition to the annual renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 13:750 (December 1987), LR 15:392 (May 1989), LR 17:667 (July 1991), LR 18:962 (September 1992), LR 20:

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or the proper entities, then a public hearing on these matters will be held on Thursday, October 27, 1994 at 9 a.m., at the Office of the Louisiana State Board of Physical Therapy Examiners, 2014 West Pinhook Road, Suite 701, Lafayette, LA 70508. Please contact the board office at (318) 262-1043 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed rule may be

directed to this address and made to the attention of Sharon Toups, Chairman. Such comments should be submitted no later than the close of business at 4:30 p.m. on Friday October 21, 1994.

Sharon Toups
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education, Prohibitions, Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board will not incur any implementation cost associated with the proposed rule adoption.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board does not anticipate an increase in revenue from the change in examination and re-examination fee. The increase in the examination fee is due to an increase in the price of the national licensure examination. The board will be paying \$185 for each exam as opposed to the current cost of \$100 per exam.

The board anticipates an annual increase in revenue from the increase in licensure verification fee of approximately \$4,800.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals applying for licensure as physical therapists or physical therapist assistants by examination will have to pay a fee of \$310 to take the exam for the first time. Those individuals who fail the exam will pay \$285 to re-take the examination. The increase in cost will be effective for those who sit for the exam after January 1, 1995.

Those physical therapists or physical therapist assistants who are leaving Louisiana to work in another state will pay \$20 for a licensure verification to be sent to that state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All states will be increasing their examination fee due to the increased cost of the exam. Since there is a national shortage of physical therapists and physical therapist assistants, there should be no change in the current employment opportunities for these individuals.

Sharon Toups
Chairman
9409#001

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Meetings, Examinations and Encroachments
(LAC 46:LXXXV.103, 803, and 1005)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq.,

notice is hereby given that the Board of Veterinary Medicine intends to amend the LAC 46:LXXXV.103, 803 and 1005.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 1. Board of Veterinary Medicine

§103. Meetings

A. The annual meeting of the Louisiana Board of Veterinary Medicine shall be held during the last quarter of the fiscal year in April, May or June of each year, at a time and place to be announced by posting public notice of the time and place of said meeting 24 hours in advance of such meeting at the permanent office of the Louisiana Board of Veterinary Medicine in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 16:223 (March 1990), LR 19:345 (March 1993), LR 20:

Chapter 8. Registered Veterinary Technicians

§803. Examinations

B. A passing score on the VTNE shall be deemed to be the pass point as determined by the examining agency contracted with by the board for the formulation, administration and/or grading of the VTNE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:226 (March 1990), amended LR 20:

Chapter 10. Rules of Professional Conduct

§1005. Encroachments Upon Another's Practice

Any direct effort which in any way encroaches upon the practice of another veterinarian is a violation of these rules. It is the right of any veterinarian, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful veterinary services, generally after communication with the veterinarian of whom complaint is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March 1990), amended LR 20:

Interested parties may submit written comments to Ms. Vikki Riggle, Executive Director, Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on October 9, 1994. A public hearing on the proposed changes will be held on October 26, 1994 at the office of the Louisiana Board of Veterinary Medicine at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki L. Riggle
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Meetings, Examinations, and Encroachments**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs to any agency are anticipated to result from the proposed rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of any local or state units is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs or benefits anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact is anticipated.

Vikki Riggle
Executive Director
9409#064

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Veterinary Practice (LAC 46:LXXXV.Chapter 7)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Board of Veterinary Medicine intends to amend LAC 46:LXXXV.Chapter 7.

Title 7

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

Veterinarian-Client-Patient-Relationship—exists when:

3. the veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that:

a. the veterinarian or associate veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of an examination of the animal(s) and/or the animal's records, and/or by medically appropriate and timely visits to the premises where the animal(s) are kept, or

b. the veterinarian has agreed to serve as a consultant to the licensed, primary care veterinarian with whom the client and patient have established a relationship which meets the criteria of Subparagraph a above, and

c. the primary veterinarian is readily available for follow-up in the event of adverse reactions of the failure of the regimen of therapy.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:

§701. Record Keeping

* * *

D. A consultant veterinarian who dispenses a legend drug upon authorization of the primary care veterinarian must establish a patient record and/or dispensing log which shall contain at least the following information: name of patient and/or other identification, breed, sex, name of client/owner, name of drug dispensed, amount dispensed, date dispensed, name of the patient's primary care veterinarian and his/her diagnosis or therapy regime for which the drug being dispensed has been prescribed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980) amended LR 16:225 (March 1990), LR 19:1329 (October 1993), LR 20:

§703. Consultant

* * *

The term "consultant" as used in the definition of a veterinarian-client-patient relationship found in §700 may only be applied to a Louisiana licensed veterinarian. To perform a consultation, the consultant veterinarian must speak directly with the patient's primary provider of veterinary care who must also be a licensed veterinarian in Louisiana or in the patient's primary or most recent state of residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 16:225 (March 1990), LR 20:

§705. Prescribing and Dispensing Drugs

A. The following activities are prohibited:

1. No legend drug, as defined in §700, shall be administered, prescribed, dispensed, delivered to, or ordered for animals with which the veterinarian has not established a veterinarian-client-patient relationship as a primary care provider or as a consultant to the primary care provider. A consultant veterinarian who dispenses a legend drug must maintain records in accordance with §701.

2. No controlled substance, as defined in §700, shall be administered, prescribed, dispensed, delivered to, or ordered for animals with which the veterinarian has not established a veterinarian-client-patient relationship as a primary care provider by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof, and determined that such controlled substance is therapeutically indicated following said examination.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16:226 (March 1990), LR 19:1329 (October 1993), LR 20:

Interested parties may submit written comments to Ms. Vikki Riggle, Executive Director, Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on October 9, 1994.

A public hearing on the proposed changes will be held on October 26, 1994 at the office of the Louisiana Board of Veterinary Medicine at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki L. Riggle
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Veterinary Practice**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs to any agency are anticipated to result from the proposed rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of any local or state units is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Licensees will be legally able to provide services to members of the public who need services but are not full-time clients. Licensees and private individuals should both benefit from ability to obtain services in this manner.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact is anticipated.

Vikki Riggle
Executive Director
9409#065

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Fetal Death Certificate (LAC 48:V.12315)

Under the authority of R.S. 40:5 and 40:33, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, proposes to adopt the following rule, pursuant to R.S. 40:47, to promulgate instructions for preparing a Louisiana Certificate of Fetal Death (Stillbirth) by adding §12315 to Chapter 123 of Title 48 of the Louisiana Administrative Code.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 123. Preparation of Certificates

§12315. Preparation of Certificate of Fetal Death

(PHS 6)

A. **Fetal Death Definition and Mandatory Reporting.** Each spontaneous fetal death of 20 complete weeks gestation or more, calculated from the date the last normal menstrual cycle began to the date of delivery, or a weight of 350 grams or more, which occurs in this state shall be reported within five days after delivery to the vital records registry on a Certificate of Fetal Death (PHS 6) or as otherwise directed by the state registrar.

B. **Reporting Responsibility.** When a Certificate of Fetal Death is required and the dead fetus was delivered in an institution, the person in charge of the institution shall prepare the certificate and secure the certification of the medical attendant. The original certificate shall be provided to the funeral director responsible for disposition of the fetal remains. When a Certificate of Fetal Death is required and the dead fetus was not delivered in an institution, the funeral director shall obtain the certification of the attendant or coroner and shall prepare the certificate.

C. **Disposition of Fetal Remains.** When a fetal death occurs and a Certificate of Fetal Death is required, the fetal remains shall be released to a Louisiana licensed funeral director only.

D. Preparation of Certificate of Fetal Death (PHS 6)

1. **NAME OF FETUS (OPTIONAL) (Item 1).** This is an optional item. Leave the item blank, or enter the name of the fetus as provided by the mother or the mother's husband. If the mother was married at the time of conception, the surname of the fetus shall be the surname of the husband; or, if the mother and her husband agree, the surname of the fetus may be the maiden name of the mother. If the mother was unmarried at the time of conception, the surname of the fetus shall be the maiden name of the mother.

2. **FACILITY NAME (If not institution, give street and number) (Item 2).** Enter the full name of the hospital, free-standing birthing center, or other facility where the delivery occurred. If the delivery occurred in a moving conveyance en route to or on arrival at a facility, enter the full name of the facility followed by "En Route." If the delivery occurred at home, enter the house number and street name of the place where delivery occurred. If delivery occurred at some place other than those described above, enter the number and street name of the location. If the delivery occurred on a moving conveyance that was not en route to a facility, enter as the place of delivery the address where the fetus was first removed from the conveyance.

3. **CITY, TOWN, OR LOCATION OF DELIVERY (Item 3).** Enter the name of the city, town, village, or location where the delivery occurred. For deliveries occurring on a moving conveyance, enter the city, town, village, or location where the fetus was first removed from the conveyance. If a dead fetus is found in this state and the place of fetal death is unknown, the fetal death shall be registered in this state. The

place where the fetus was found shall be considered the place of fetal death.

4. **PARISH OF DELIVERY (Item 4).** Enter the name of the parish where the delivery occurred. For deliveries occurring on a moving conveyance, enter the parish where the fetus was first removed from the conveyance.

5. **DATE OF DELIVERY (Month, Day, Year) (Item 5).** Enter the exact month, day, and year the fetus was delivered. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month. Pay particular attention to the entry of month, day, and year when the delivery occurs around midnight or on December 31. Consider a delivery at midnight to have occurred at the end of the day rather than the beginning of the next day.

6. **SEX OF FETUS (Item 6).** Enter male, female, or undetermined. Do not abbreviate or use other symbols. Do not leave this item blank.

7. **MOTHER'S NAME (First, Middle, Last) (Item 7a).** Type or print the first, middle, and last name of the mother. This is the mother's current legal name.

8. **MAIDEN SURNAME (Item 7b).** Enter the last name of the mother as given at birth or adoption, not a name acquired by marriage.

9. **DATE OF BIRTH (Month, Day, Year) (Mother) (Item 8).** Enter the exact month, day, and year that the mother was born. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

10. **RESIDENCE—STATE (Mother) (Item 9a).** Enter the name of the state in which the mother lives. This may differ from the state in her mailing address. If the mother is not a U.S. resident, enter the name of the country and the name of the unit of government that is the nearest equivalent of a state.

11. **RESIDENCE—PARISH (Mother) (Item 9b).** Enter the name of the parish in which the mother lives.

12. **RESIDENCE—CITY, TOWN, OR LOCATION (Mother) (Item 9c).** Enter the name of the city, town, or location where the mother lives. This may differ from the city, town or location used in her mailing address.

13. **RESIDENCE—STREET AND NUMBER (Mother) (Item 9d).** Enter the number and street name of the place where the mother lives.

14. **RESIDENCE—INSIDE CITY LIMITS? (Yes or no) (Mother) (Item 9e).** Enter "Yes" if the location entered in Item 9c is incorporated and the mother's residence is inside its boundaries. Otherwise, enter "No."

15. **RESIDENCE—ZIP CODE (Mother) (Item 9f).** Enter the ZIP Code of the place where the mother resides.

16. **FATHER'S NAME (First, Middle, Last) (Item 10).** If the fetus was born to a mother who was married at the time of delivery, type or print the name of her husband. If the fetus was conceived in wedlock, but delivered after a divorce was granted or after the husband died, type or print the name of the mother's deceased or divorced husband. If the fetus was conceived and delivered out of wedlock to a divorced, widowed, or never-married mother, make no entry regarding the father's name and omit items 10, 11, 12b, 13b, 14b, and 15c and 15d.

17. DATE OF BIRTH (Month, Day, Year) (Father) (Item 11). Enter the exact month, day, and year that the father was born. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

18. OF HISPANIC ORIGIN? (Specify No or Yes - If yes, specify Cuban, Mexican, Puerto Rican, etc.) (Mother and Father) (Items 12a and 12b).

a. Check "No" or "Yes." If "Yes" is checked, enter the specific Hispanic group. Item 18 should be checked for the mother on all reports and for the father in all cases where the name of the father is shown on the report. Do not leave this item blank. The entry in this item should reflect the response of the informant.

b. For the purposes of this item, "Hispanic" refers to people whose origins are from Spain, Mexico, or the Spanish-speaking countries of Central and South America. Origin can be viewed as the ancestry, nationality, lineage, or country in which the person or his or her ancestors were born before their arrival in the United States.

c. There is no set rule as to how many generations are to be taken into account in determining Hispanic origin. A person may report his or her Hispanic origin based on the country of origin of a parent, grandparent, or some far removed ancestor. The response should reflect what the person considers himself or herself to be and is not based on percentages of ancestry. Although the prompts include the major Hispanic groups of Cuban, Mexican, and Puerto Rican, other Hispanic groups should also be identified in the space provided.

d. If a person indicates that he or she is of multiple Hispanic origin, enter the origins as reported (for example, Mexican-Puerto Rican.) If a person indicates that he or she is Mexican-American or Cuban-American, enter the Hispanic origin as stated.

e. This item is not a part of the race item. A person of Hispanic origin may be of any race. Each question, Race and Hispanic Origin, should be asked independently.

19. RACE—American Indian, Black, White, etc. (Specify below) (Mother and Father) (Items 13a and 13b).

a. Enter the race of the mother and the father as obtained from the parent(s) or other informant. This item should be completed for the mother on all reports and for the father in all cases where the name of the father is shown on the report. The entry in this item should reflect the response of the informant.

b. For Asians and Pacific Islanders, enter the national origin of the mother and the father, such as Chinese, Japanese, Filipino, or Hawaiian. If the informant indicates that the mother and/or father is of mixed race, enter both races.

20. EDUCATION (Specify only highest grade completed) Elementary/Secondary (0-12) — College (1-4 or 5+) (Mother and Father) (Items 14a and 14b). Enter the highest number of years of regular schooling completed by the mother and father in either the space for elementary/secondary school or the space for college. An entry should be made in only one of the spaces. The other space should be left blank. Report only those years of school that were completed. A person who enrolls in college but does not complete one full year should

not be identified with any college education in this item. Count formal schooling. Do not include beauty, barber, trade, business, technical or other special schools when determining the highest grade completed.

21. OCCUPATION AND BUSINESS/INDUSTRY (Worked during last year) (Mother and Father) (Items 15a and 15c).

a. Enter the information even if the parent(s) was retired, disabled, or institutionalized at the time of fetal death. Enter the occupation of the parent(s) during the last year. The occupation is the kind of work the parent(s) did during most of the previous year, such as claim adjuster, farmhand, coal miner, homemaker, college professor, etc. Even if the mother resigned her employment early in the pregnancy, that occupation should be reported.

b. If the mother did not work outside her home in the previous 12 months, report her occupation as "Homemaker" and her industry (Item 15b) as "Own home." If the father did not work during the previous 12 months, report his occupation as "Unemployed" and the industry (Item 15d) as "None." In determining which occupation to report for a parent who held more than one job during the year, give the occupation held during the pregnancy. If both jobs were held during the pregnancy, give the occupation worked for the longest period of time.

c. Enter "Student" if the parent(s) was a student and was never regularly employed or employed full time during the year prior to delivery. If questions arise about what classification to use for an occupation or industry, you may find the handbook *Guidelines for Reporting Occupation and Industry on Death Certificates* helpful.

22. BUSINESS/INDUSTRY (Mother and Father) (Items 15b and 15d). Enter the kind of business or industry to which the occupation listed in 15a and/or 15c was related, such as insurance, farming, coal mining, hardware store, retail clothing, university, or government. Do not enter firm or organization names.

23. SIGNATURE OF PHYSICIAN OR CORONER (Item 16). The person legally responsible shall sign in the space in permanent black ink indicating professional status, i.e., M.D. or Coroner. The physician or coroner shall limit his signature to the space provided. *Note:* This section shall only be completed by the attending physician or coroner (including assistants) certifying death. No one else may sign for him and facsimiles or stamps shall not be acceptable. Check "M.D.," "D.O.," "C.N.M." or "Other" as appropriate. If "Other," enter "Coroner" or description of person certifying.

24. SIGNATURE AND ADDRESS OF FUNERAL DIRECTOR (Item 17). The funeral director or person authorized to act in behalf of the funeral director shall sign in black, permanent ink and include the business address.

25. METHOD OF DISPOSITION (Burial, cremation, removal, other) (Item 18). Check the appropriate block. If "other" is checked, specify method of disposition. Enter the date of disposition.

26. NAME AND LOCATION OF CEMETERY OR CREMATORIUM (Item 19). Enter the official name, address or location, including city or location and state of the cemetery or crematorium where final disposition is to be made.

27. **BURIAL TRANSIT PERMIT (Item 20).** The number of the Burial Transit Permit is entered here by the local registrar or special agent issuing it at the time of issuance. Note that permits are only issued upon presentation of a properly completed Fetal Death Certificate. However, if a funeral director presents a Fetal Death Certificate completed to the limits of his ability and resources and for reasons beyond his control he is unable to submit an entirely completed certificate, a permit shall be issued. The permit is issued with the provision and understanding that the funeral director will present a completed document as soon as possible. In the event that the funeral director abuses the privilege, it will be withdrawn.

28. **PARISH OF ISSUE (Item 21).** Enter the parish name in full where the permit was issued.

29. **DATE OF ISSUE (Item 22).** Enter the date that the Burial Transit Permit was issued.

30. **SIGNATURE OF LOCAL REGISTRAR (Item 23).** Enter the signature of the local registrar of the parish where the certificate is filed. The signature shall be in permanent black ink.

31. **CAUSE OF DEATH (Item 24).**

a. The section on cause of death consists of two parts. Part I is for reporting the sequence of events leading to the fetal death, proceeding backward from the immediate cause of fetal death. In Part II, other significant contributory conditions to the fetal death are reported. In reporting the cause of fetal death, conditions in the fetus or mother, or of the placenta, cord, or membranes, should be reported if they are believed to have adversely affected the fetus. Cause of fetal death should include information provided from tissue analysis, autopsy, or any other type of postmortem examination. If microscopic examinations for a fetal death are still pending at the time the report is filed, the additional information should be reported to the registrar as soon as it is available.

b. Only one cause is to be entered on each line of Part I. Additional lines should be added between the printed lines, when necessary. For each cause, indicate in the space provided at the end of the line whether the condition was fetal or maternal. The underlying cause of fetal death should be entered on the lowest line used in Part I. The underlying cause of fetal death is the condition that started the sequence of events between the normal health of the mother or fetus and the immediate cause of the fetal death.

c. In Part I, the immediate cause of fetal death is reported on line (a). This is the fetal or maternal disease or condition directly causing the fetal death. An immediate cause of fetal death must always be reported and entered on line (a). It can be the sole entry in the cause of fetal death section if that condition was the only condition causing the fetal death.

d. On line (b) report the disease, injury, or complication, if any, that gave rise to the immediate cause of fetal death. If this in turn resulted from another condition, record that condition on line (c). The underlying cause of fetal death should be reported on the lowest line used in Part I.

e. The words "due to (or as a consequence of)," which are printed between the lines of Part I, apply not only to

sequences with an etiological or pathological basis but also to sequences in which an antecedent condition is believed to have prepared the way for the more immediate cause by damage to tissues or impairment of function.

f. If an accident, poisoning, or violence to the mother caused death to the fetus, a brief description of the external cause should be entered on the line immediately below the description of the type of injury or poisoning.

g. If the immediate cause of death arose as a complication of, or from an error or accident in surgery, or other procedure or treatment, enter this on the line below the immediate cause with a note of the circumstances and the condition for which the procedure or other treatment was being carried out.

h. Space is provided at the end of each line in Part I for recording whether the condition was fetal or maternal. This should be entered for all conditions.

i. In Part II, record all important diseases or conditions in the fetus or mother that were present at the time of fetal death, and that may have contributed to the fetal death but did not result in the underlying cause of fetal death listed.

j. In many instances, information on the cause of fetal death may be pending further study of tissue or autopsy results or a pathology report. When additional information is obtained, the physician or coroner should file a supplemental report of the cause of fetal death. The supplemental report will result in amendment of the fetal death certificate to reflect the additional information.

32. **FETUS DIED BEFORE LABOR, DURING LABOR OR DELIVERY, UNKNOWN (Specify) (Item 25).** Indicate when the fetus died by specifying one of the above choices.

33. **NOW-LIVING (Item 26a).** Enter the number of children born alive to this mother who are still living at the time of this delivery. Do not include children by adoption. Check "None" if this is the first delivery to this mother or if all previous children are dead.

34. **NOW DEAD (Item 26b).** Enter the number of prior children born alive to this mother who are no longer living at the time of this delivery. Do not include children by adoption. Check "None" if this is the first delivery to this mother or if all previous children are still living.

35. **DATE OF LAST LIVE BIRTH (Month, year) (Item 26c).**

a. Enter the date (month and year) of birth of the last live-born child of the mother.

b. If this report is for the second delivery of a twin set, enter the date of birth for the first baby of the set, if it was born alive. Similarly, for triplets or other multiple deliveries, enter the date of birth of the previous live birth of the set. If all previous born members of a multiple set were born dead, enter the date of the mother's last delivery that resulted in a live birth.

c. Enter "-", "Not Applicable," or "None," if the mother has not had a previous live birth. Do not leave this item blank.

d. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

36. **OTHER TERMINATIONS (Do not include this fetus) NUMBER (Item 26d).** Enter the number of fetuses that were

delivered dead regardless of the length of gestation. Include each recognized loss of a product of conception, such as ectopic pregnancy, miscarriage, stillbirth, and spontaneous or induced abortion. Do not include this fetus. Check "None" if this is the first pregnancy for this mother or if all previous pregnancies resulted in live-born infants.

37. DATE OF LAST OTHER TERMINATION (Month, Year) (Item 26e).

a. Enter the date (month and year) of the last termination of pregnancy that was not a live birth regardless of the length of gestation. If the mother has never had such a termination, enter "-", "Not Applicable," or "None." Do not leave this item blank. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

b. If this report is the second delivery of a twin set and the first was born dead, enter the date of delivery of that fetus. Similarly, for other multiple births, if any previous member of the set was born dead, enter the date of delivery of that fetus. If all previous born members of a multiple set were born alive, enter the date of the mother's last delivery that resulted in a fetal death.

38. MOTHER MARRIED? (At delivery, conception, or any time between) (Yes or No) (Item 27). Enter "Yes" if the mother was married at the time of conception, at the time of delivery, or at any time between conception and delivery. Otherwise, enter "No." A person is no longer married when the final divorce decree is issued.

39. DATE LAST NORMAL MENSES BEGAN (Month, Day, Year) (Item 28).

a. Enter the exact date (month, day, year) of the first day of the mother's last normal menstrual period, as obtained from the physician or hospital record. If the information is unavailable from these sources, obtain it from the mother.

b. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

c. If the exact day is unknown but the month and year are known, obtain an estimate of the day from the mother, her physician, or the medical record. If an estimate of the date cannot be obtained, enter the month and year only.

d. Enter "Unknown" if the date cannot be determined. Do not leave this item blank.

40. MONTH OF PREGNANCY PRENATAL CARE BEGAN—First, Second, Third, etc. (Specify) (Item 29).

a. Enter the number of the month in this pregnancy (second, third fourth, etc.) when the mother first received care from a physician or other health professional or attended a prenatal clinic. Do not enter the name of the given month.

b. The month of the pregnancy in which prenatal care began is measured from the date of conception. Prenatal care begins when a physician or other health professional first examines and/or counsels the pregnant woman.

c. If no prenatal care was received, enter "None." If Item 30 is reported "None," this item should also be completed as "None." Do not leave this item blank.

41. PRENATAL VISITS—Total Number (If none, so state) (Item 30).

a. Enter the number of visits made for medical supervision of the pregnancy from a physician or other health care provider during the pregnancy. If no prenatal care was received, enter "None." If Item 29 is reported as "None," this item should also be completed as "None." Do not leave this item blank.

b. If "None" is entered in Item 29 and a number is reported in Item 30, check to determine if a mistake has been made.

42. WEIGHT OF FETUS (Specify unit) (Item 31). Enter the weight as shown in the hospital record in either grams or pounds and ounces. Do not convert from one measure to the other. Specify the type of measure used (grams or pounds and ounces).

43. CLINICAL ESTIMATE OF GESTATION (Weeks) (Item 32). Enter the length of gestation as estimated by the attendant. Do not compute this information from the date of last normal menses began and date of delivery. If the attendant has not done a clinical estimate of gestation, enter "None." Do not leave this item blank.

44. PLURALITY—Single, Twin, Triplet, etc. (Specify) (Item 33a). Specify the delivery as single, twin, triplet, etc.

45. IF NOT SINGLE BIRTH—Born First, Second, Third, etc. (Specify) (Item 33b). Specify the order in which the fetus being reported was delivered—first, second, etc. If this is a single delivery, leave the item blank.

46. MEDICAL RISK FACTORS FOR THIS PREGNANCY (Check all that apply) (Item 34a). Check each of the medical risk factors that the mother experienced during the pregnancy. Complications should be entered even if they are a part of the cause of fetal death in Item 24. If the mother experienced medical risk factor(s) not identified in the list—for example other infectious diseases, AIDS, or syphilis—check "Other" and enter the risk factor on the line provided. Medical risk factors should be identified from the hospital or physician record. If there were no medical risk factors, check "None." Do not leave this item blank.

47. OTHER RISK FACTORS FOR THIS PREGNANCY (Complete all items) (Item 34b).

a. Complete each question/statement. Check "Yes" for tobacco use if the mother smoked tobacco at the time of pregnancy. Check "No" if the mother did not smoke tobacco at any time during the pregnancy. If "Yes" is checked, specify the average number of cigarettes the mother smoked per day during her pregnancy. If, on an average, she smoked less than one cigarette per day, enter "Less than 1." If "No" is checked, do not make any entry on the line requesting the average number of cigarettes per day.

b. Check "Yes" for alcohol use if the mother consumed alcoholic beverages during her entire pregnancy. Check "No" if the mother did not consume any alcoholic beverages during her entire pregnancy. If yes is checked, specify the average number of drinks she consumed per week. One drink is equivalent to 5 ounces of wine, 12 ounces of beer, or 1 1/2 ounces of distilled liquor. If, on the average, she drank less than one drink per week, enter "Less than 1." If "No" is checked, do not make an entry on the line requesting the average number of drinks per week.

c. Enter the entire amount of weight gained by the mother during the pregnancy in pounds. Do not enter the total weight of the mother. If no weight was gained, enter "None." If the mother lost weight during the pregnancy, enter the amount of weight lost (for example, "Lost 10 pounds"). Do not leave this item blank.

48. OBSTETRIC PROCEDURES (Check all that apply) (Item 35). Check each type of procedure that was used during the pregnancy. More than one procedure may be checked. If a procedure was used that is not identified in the list, check "Other" and specify the procedure on the line provided. If no procedures were used, check "None." Do not leave this item blank. This information should be obtained from the mother's medical chart or the physician.

49. COMPLICATIONS OF LABOR AND/OR DELIVERY (Check all that apply) (Item 36). Check each medical complication present during labor and/or delivery. Check complications here even if they are a part of the cause of fetal death in Item 24. If a complication was present that is not identified in the list, check "Other" and specify the complication on the line provided. If there were no complications, check "None." Do not leave this item blank. This information should be obtained from the mother's medical chart or the physician.

50. METHOD OF DELIVERY (Check all that apply) (Item 37). Check the method of delivery of the fetus. If more than one method was used, check all methods that apply to this delivery. Do not leave this item blank. This information should be obtained from the mother's medical chart or the physician.

51. CONGENITAL ANOMALIES OF FETUS (Check all that apply) (Item 38). Check each anomaly of the fetus. Do not include birth injuries. The checklist of anomalies is grouped according to major body systems. If an anomaly is present that is not identified in the list, check "Other" and specify the anomaly on the line provided. Note that each group of system-related anomalies includes an "Other" category for anomalies related to that particular system. If there is a question as to whether the anomaly is related to a specific system, enter the description of the anomaly in "Other (Specify)" at the bottom of the list. If there are no congenital anomalies of the fetus, check "None." Do not leave this item blank. This information should be obtained from the medical chart or the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5, 40:33, and 40:47.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than the close of business November 20, 1994, to William H. Barlow, Director and State Registrar, Division of Records and Statistics, Office of Public Health, Box 60630, New Orleans, LA 70160.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Fetal Death Certificate

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation cost as a result of the proposed rule.
- 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 government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The measure will assist medical institutions, coroners, physicians, funeral directors and others in preparing and filing Certificates of Fetal Death. There is no estimated cost or economic benefits for persons affected by the rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The measure should have no impact on competition and employment.

Eric T. Baumgartner, M.D., M.P.H.
Assistant Secretary
9409#067

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Genetic Diseases Services (LAC 48:V.6303)

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, proposes to amend Subsections A and F and add Subsection G and supporting references of LAC 48:V.6303 as follows. The proposed rule specifies requirements for laboratories providing state-mandated newborn screening tests. It also restates current requirements for patients with inborn errors of metabolism disorders to participate in the medical and nutritional management services offered by the Office of Public Health.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

A. Purpose and Scope. R.S. 40:1299 et seq., require physicians to test Louisiana neonates for phenylketonuria, congenital hypothyroidism and sickle cell disease. The Office of Public Health (OPH) maintains a laboratory for performing screening tests for hyperphenylalaninemia manifest in phenylketonuria (PKU), for Thyroxine (T₄) and thyroid stimulating hormone (TSH) used in congenital hypothyroidism detection, and hemoglobin electrophoresis for sickle cell disease. Definitive diagnostic tests are provided if the

screening test is positive. Act 0997, 1993 Legislative Regular Session of the State of Louisiana, removed galactosemia from the newborn screening battery and replaced it with a program for informing physicians and hospitals of the current medical standards for diagnosing and treating children who exhibit clinical symptoms which suggest the presence of galactosemia.

* * *

F. Medical/Nutritional Management

1. In order for a patient with PKU or other rare inborn errors of metabolism to receive the special formulas for the treatment of these disorders from the state's Genetics Program, the following guidelines must be met:

a. The patient must be a resident of the state of Louisiana.

b. The patient must receive a medical evaluation at least once annually at Tulane Human Genetics Program Clinic or from another medical center program providing specialized management of metabolic patients (specialized management must include nutrition consultation by a licensed and/or registered dietician).

c. The patient must provide blood samples as requested by the medical specialist under contract with the program or laboratory test results from an outside lab for phenylalanine and tyrosine levels as frequently as determined by the treating physician.

d. The patient must include dietary records with the submission of each blood specimen if the patient is receiving services through the Tulane Human Genetics Program.

e. All insurance forms relative to charges for special formula must be signed and submitted by the parent or appropriate family member.

f. The parent or appropriate family member must inform the Genetics Program office immediately of any changes in insurance coverage.

G. Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers Not Using the State Laboratory. The above newborn screening rules (Subsections A-F) are sufficient for ensuring early detection of affected newborns and prevention of the catastrophic health problems associated with the untreated disorders when the state screening system is used. Louisiana is one of eight states that does not mandate centralized testing as evidenced by the approximately 13 percent of Louisiana newborns initially tested in private laboratories. Having multiple laboratories performing testing without linkage with the State Newborn Screening Program prevents the state from fulfilling its role of providing assistance to families and attending physicians in providing proper follow-up of suspect cases as described in R.S. 40:1299.1. Short of seeking centralized testing in one laboratory, (as recommended by the American Academy of Pediatrics, the Council on Regional Networks and the American Bar Foundation) the following provides requirements for procedures and testing methodologies on neonatal screening, reporting of positive test results, and follow-up by means other than the state program. Literature supporting testing by a centralized laboratory, acceptable testing methodologies and other quality assurance measures for newborn screening are referenced at the end of Subsection G.²

Effective February 1, 1995 laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1:

1. The testing battery must include testing for phenylketonuria (PKU), congenital hypothyroidism and sickle cell disease.

2. Only the following testing methodologies are acceptable:

Disease	Testing Methodology
PKU	Fluorometric Guthrie phenylalanine level cut-off: ≥2 mg/dl for specimens under 48 hours of age ≥4 mg/dl for specimens obtained from a newborn 48 hours of age or older

Congenital Hypothyroidism	Radioimmunoassay (RIA) or Enzyme Immunoassay (EIA) methods for T ₄ and Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates
Sickle Cell Disease	Hemoglobin Electrophoresis (cellulose acetate and citrate agar or isoelectric focusing) or high performance liquid chromatography (HPLC) (Sickle Dex is not acceptable)

3. All initial positive results must be immediately reported, along with patient demographic information to the Genetic Diseases Office by FAX at (504) 568-7722 and followed up by the mailing of the information to the following address:

Genetic Diseases Program
P.O. Box 60630 - Room 308
New Orleans, Louisiana 70160

²References pertaining to Subsection G:

a. Committee on Genetics, American Academy of Pediatrics Issues in Newborn Screening. *Pediatrics* 1992; 89:345.

b. CORN Newborn Screening Committee, Council of Regional Networks for Genetic Services. U.S. Newborn Screening System Guidelines: Statement of the Council of Regional Networks for Genetic Services. *Screening*, 1 (1992 pp. 135-147).

c. Andrews L *Legal Liability and Quality Assurance in Newborn Screening*. Chicago, American Bar Foundation (1985), pp. 82-83.

d. National Committee for Clinical Laboratory Standards (NCLS) Standards for Blood Collection on Filter Paper for Neonatal Screening. Document LA4-A2 July 1992.

e. Committee on Assessing Genetic Risks, Division of Health Sciences Policy, Institute of Medicine *Assessing Genetic Risks* National Academy Press, Washington DC (1994).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5 and R.S. 40:1299 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:1130 (October 1992), LR 20:

A public hearing will be held on October 27, 1994 at 1:30 p.m. in Room 511 of the State Office Building located at 325 Loyola Avenue in New Orleans.

Interested persons may submit written comments on the proposed rule until October 30, 1994 at the following address: Charles Myers, MSW, Administrator, Louisiana Genetic Diseases Program, Office of Public Health/DHH, Section of Genetics, Room 308, 325 Loyola Avenue, New Orleans, LA 70112.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Genetic Diseases Services**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no effect on costs or economic benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Eric T. Baumgartner, M.D., MPH
Assistant Secretary
9409#069

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Paternity/Filiation (LAC 48:V.11501)

Under the authority of R.S. 40:33C, 40:59, 40:60, and in accordance with the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, proposes to amend the procedure and evidence requirements related to Acknowledgments of Paternity, and Judgments of Paternity and Filiation as provided for in the Louisiana Civil Code under Articles 203 and 209, and in the Louisiana Revised Statutes under Section 40:34 by amending Section 11501 of Chapter 115 of Title 48 of the *Louisiana Administrative Code* (LAC 48:V.11501) in its entirety as follows.

Title 48

**PUBLIC HEALTH - GENERAL
Part V. Preventive Health Services
Subpart 45. Vital Records**

Chapter 115. Paternity

§11501. Acknowledgment of Paternity; Judgment of Filiation/Paternity

A. Introduction

1. All documents submitted to accomplish changes on a birth certificate as a result of Acknowledgments of Paternity, or Judgments of Filiation or Paternity shall be either the original or certified, true copies of the original instruments bearing an official seal or stamp and signature. All documents submitted shall be retained by the State Registrar.

2. Certificates of Live Birth, new or altered as a consequence of an Act of Acknowledgment of Paternity, or Judgment of Filiation or Paternity, shall be distinctly marked "Acknowledgment" or "Filiation or Paternity Judgment" in the confidential section and shall include the evidentiary basis for the action, the date of the action, and the full signature of the State Registrar or his designee.

3. A birth certificate which bears a father's surname and data shall be altered based upon an Acknowledgment of Paternity only when there has been a successful disavowal of paternity by the father or heirs in accordance with Codal Articles 187 through 190 within the time specified by Codal Article 189, or in compliance with Acts 1993, No. 740.

4. No alterations of birth data other than the child's surname, and the data relative to the biological father may occur based on an Act of Acknowledgment.

B. Voluntary Acknowledgment of Paternity - Illegitimate Minors

1. In circumstances wherein the birth certificate of a child on file in the Vital Records Registry does not reflect the name of a father, the certificate may be altered by an authentic Act of Acknowledgment in compliance with the provisions of Louisiana Civil Code, Article 203.

2. The State Registrar of Vital Records shall recognize formal and authentic Acts of Acknowledgment executed before a notary public, by the father and the mother jointly in the presence of two competent witnesses; when the mother is unable to appear before a notary public, the Registrar shall recognize a formal and authentic Act of Acknowledgment executed by the father before a notary public and two competent witnesses which has been endorsed by the mother in the presence of two competent witnesses signifying that the mother concurs. An acknowledgment by the child's mother or father alone, while authorized pursuant to Article 203, shall have no effect on the birth record. In other words, the child's mother or father, acting alone, may not cause a father's name or data to be added onto a birth record.

3. The Act of Acknowledgment shall set forth the acknowledging father's full name and address, city and state of birth, age at the time of the child's birth, and the father's race. In the event that the above information relating to the child's father is not a part of the authentic act itself, that information may be otherwise provided in writing by the acknowledging parent(s) or an attorney acting on his or their behalf.

4. The surname of the child that the parents desire appear on the birth certificate shall be specifically included in the Acknowledgment of Paternity. The surname may be either the maiden name of the mother, the surname of the biological father or a hyphenated combination of the two surnames in the order specified by the parents.

5. After a birth record has been filed and registered in the Vital Records Registry and upon presentation of an Act of Acknowledgment of Paternity and parental information, the State Registrar or his designee shall prepare a new Certificate of Live Birth for the child incorporating the specified birth facts. The biological father shall sign the new certificate. The date of the informant's signature shall be left blank on the Certificate of Live Birth. The mother's signature shall be obtained if the father is not available. If neither are available, the State Registrar is authorized to sign for the parents.

6. Except in instances of "in-hospital" acknowledgments, when the attendant's name is not legible on the original Certificate of Live Birth, it shall be the responsibility of the parents to obtain a written, signed statement from the attendant attesting to his attendance at the birth. When such a signed statement cannot be obtained from the attendant, the statement may be obtained from the administrator of the medical institution where the birth occurred or his designee on the letterhead of that institution. The name of the attendant shall be typed on the Certificate of Live Birth along with the date of the attendant's signature as it appeared on the original birth document.

7. The fee specified for an acknowledgment (See R.S. 40:40 [8]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for any copies of the revised Certificate of Live Birth desired by the parents.

C. Obtaining a "new" Certificate of Live Birth on an "old" Acknowledgment of Paternity for those persons who have not reached the age of majority

1. The mother or father of a child who was acknowledged prior to the effective date of this rule may formally request that a new Certificate of Live Birth be issued. Provided that the acknowledgment documents on file are in proper order as specified in §11501.A.1. above and the information regarding the attendant is provided, a new certificate may be issued. Any deviation from the surname of the child as it appears on the Certificate of Live Birth already on file shall be in accordance with the naming process outlined above and shall require an affidavit in which the mother and biological father concur in the revised surname.

2. The fee specified for a Certificate of Live Birth "correction" (See R.S. 40:40 [10]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for copies of the revised Certificate of Live Birth purchased by the parents at the time of the transaction. Fees previously paid shall not be credited against the correction fees.

D. Acknowledgment of Paternity on Illegitimate Persons who have Reached the Age of Majority

1. If at the time of Acknowledgment of Paternity, or Judgment of Paternity or Filiation the registrant shall have reached the age of majority, the State Registrar shall require an affidavit(s) to be obtained from the district attorney(s) of

the place(s) of residence and domicile of the said person for the past five years, wherein the district attorney(s) shall state objections, if any exist, to the name change aspects, prior to the preparation of the altered or new Certificate of Live Birth. If there is no objection, the State Registrar may proceed to alter the birth record or issue the "new" certificate, whichever is appropriate. If there is an objection, the State Registrar may not proceed with the alteration or new certificate until the district attorneys' objections, if any, have been resolved.

2. The fee specified for a Certificate of Live Birth "correction" (See R.S. 40:40 [10]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for copies of the revised Certificate of Live Birth purchased by the parents at the time of the transaction. Fees previously paid shall not be credited against the correction fees.

E. Judgment of Paternity or Filiation Concerning an Illegitimate Minor

1. A Certificate of Live Birth of an illegitimate child may be amended by a Judgment of Paternity or Filiation issued by a court of competent jurisdiction. Only the surname of the child may be altered and/or the facts relative to the father may be added as a result of the judgment. A certified copy of the paternity or the filiation judgment, along with a certified copy of the petition shall be submitted to the State Registrar.

2. The fee specified for an acknowledgment (See R.S. 40:40 [8]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for copies of the revised Certificate of Live Birth purchased by the parents at the time the record is revised.

F. Judgment of Paternity or Filiation Concerning a Legitimate Minor (Petition Filed by Biological Father)

1. A Certificate of Live Birth of a legitimate child may be amended by a Judgment of Paternity or Filiation issued by a court of competent jurisdiction. At the option of the biological father, the surname of the child shall be either his surname or the maiden name of the mother of the child, or, if both the biological father and mother agree, the surname of the child may be a combination of the surname of the father and the maiden name of the mother. The name of the legal father shall be replaced by the name of the biological father.

2. A certified copy of the Judgment of Paternity or Filiation, along with a certified copy of the petition shall be submitted to the State Registrar.

3. The fee specified for a correction (See R.S. 40:40 [10]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for copies of the revised Certificate of Live Birth purchased by the parents at the time the record is revised.

G. Judgment of Paternity or Filiation Concerning a Legitimate Minor (Petition Filed by a Person Other than the Biological Father)

1. A Certificate of Live Birth of a legitimate child may be amended by a Judgment of Paternity or Filiation issued by a court of competent jurisdiction. The name of the legal father shall be replaced by the name of the biological father. The surname of the registrant shall not be affected by the

judgment unless the court specifically directs that the surname be changed.

2. A certified copy of the Judgment of Paternity or Filiation, along with a certified copy of the petition shall be submitted to the State Registrar.

3. The fee specified for a correction (See R.S. 40:40 [10]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for copies of the revised Certificate of Live Birth purchased by the parents at the time the record is revised.

H. Acknowledgment of Paternity Concerning a Legitimate Minor

1. An Acknowledgment of Paternity executed by the mother, the legal father or the biological father of a legitimate child acting alone or in concert with only one of the other two parties shall have no affect on the registrant's birth record.

2. If the mother and the legal father of an otherwise legitimate child have lived separate and apart for 180 days or more prior to the conception of the child, the mother, legal father and biological father may agree by affidavit that the surname of the child is the surname of the biological father or a combination of the surname of the biological father and the maiden name of the mother, and that the name of the father on the birth record shall be the name of the biological father.

3. The three party Acknowledgment of Paternity affidavit may be executed at the hospital immediately following birth or at anytime thereafter. An affidavit executed before the birth of a child shall have no affect on the child's birth record. Either action shall result in a new birth certificate. If the affidavit is presented to the State Registrar after the registrant has reached the age of majority, it shall be accompanied by a certified copy of a name change judgment or an affidavit executed by the District Attorney or his equivalent in the parish or county of residence of the registrant for the past five years. As a minimum, the affidavit shall state that the law enforcement authority has no objection to the name change.

4. Except in instances of "in-hospital" acknowledgments, when the attendant's name is not legible on the original Certificate of Live Birth, it shall be the responsibility of the parents to obtain a written, signed statement from the attendant attesting to his attendance at the birth. When such a signed statement cannot be obtained from the attendant, the statement may be obtained from the administrator of the medical institution where the birth occurred or his designee on the letterhead of that institution. The name of the attendant shall be typed on the Certificate of Live Birth along with the date of the attendant's signature as it appeared on the original birth document.

5. Only the affidavit shown in Subparagraph a below, supplied by the Vital Records Registry shall be used to prepare In-hospital Acknowledgments of Paternity regarding otherwise legitimate children. All other three party affidavits shall be prepared using the form shown in Subparagraph b below, supplied by the Vital Records Registry. The three principal parties and the two accompanying witnesses shall sign the affidavit in the presence of a notary public. Any corrections or changes in the affidavit shall be accomplished by drawing a line through the incorrect information and writing in the new information. Alterations shall not be accomplished using

erasures or liquid paper. All corrections shall be initialed by the three principals and the notary public.

a. In-hospital Acknowledgment Form (Legitimate Child)

STATE OF LOUISIANA

PARISH OF _____

BEFORE ME, the undersigned authority personally came and appeared (mother of registrant), a resident of _____ Parish/County, State of _____; (legal presumptive father), a resident of _____ Parish/County, State of _____; and (biological father), a resident of _____ Parish/County, State of _____, each of the full age of majority who being first duly sworn, deposed and said:

That (mother of registrant) and (legal presumptive father) were legally married at the time of the conception of the child born on (date of birth of registrant) in the parish of _____, State of Louisiana or that they had been divorced for less than 300 days at the time of birth of said registrant.

That (biological father) was born in (City), (State), his birth date is _____, his race is _____ and he is the biological father of the child born on (birth date of child) to (name of mother).

That (mother of registrant), (legal presumptive father), and (biological father), further agree that the name of the father contained on line 8a of the birth certificate shall be the name of the biological father and that the name of the registrant shall be _____.

That _____, the legal presumptive father of said registrant and _____, the mother of said registrant lived separate and apart continuously for a minimum of one-hundred and eighty days prior to the time of conception and have not reconciled since the beginning of the one hundred and eighty day period.

Legal Presumptive Father

Mother

Biological Father

Witness

Witness

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

NOTARY PUBLIC

b. Three Party Acknowledgment of Paternity Form
(Legitimate Child)

STATE OF LOUISIANA
PARISH OF _____

BEFORE ME, the undersigned authority personally came and appeared
(mother of registrant), a resident of _____ Parish/County, State of _____
; (legal presumptive father), a resident of _____
Parish/County, State of _____; and (biological father), a resident of _____
Parish/County, State of _____, each of the full age of
majority who being first duly sworn, deposed and said:

That (mother of registrant) and (legal presumptive father) were legally
married at the time of the conception of the child born on (date of birth of
registrant) in the parish of _____, State of Louisiana or that they had
been divorced for less than 300 days at the time of birth of said registrant.

That (biological father) was born in (City), (State), his birth date is _____
, his race is _____ and he is the biological father of the child born on
(birth date of child) to (name of mother).

That (mother of registrant), (legal presumptive father), and (biological
father), further agree that the name of the father contained on line 8a of the
birth certificate shall be the name of the biological father and that the name
of the registrant shall be changed to _____.

That _____, the legal presumptive father of said registrant and _____
, the mother of said registrant lived separate and apart continuously for
a minimum of one-hundred and eighty days prior to the time of conception
and have not reconciled since the beginning of the one hundred and eighty day
period.

Legal Presumptive Father

Mother

Biological Father

Witness

Witness

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

NOTARY PUBLIC

AUTHORITY NOTE: Promulgated in accordance with LA Civil
Code Article 203; R.S. 40:33c., R.S. 40:59, and R.S. 40:60.

HISTORICAL NOTE: Promulgated by the Department of Health
and Human Resources, Office of Preventive and Public Health
Services, LR 13:246 (April 1978), amended by the Department of
Health and Hospitals, Office of Public Health, LR 15:272 (April
1989), Amended LR 20:

Interested persons may submit written comments to William
H. Barlow, Director and State Registrar, Division of Records
and Statistics, DHH-OPH, Box 60630, New Orleans, LA
70160.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Paternity/Filiation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost is \$1,000. The cost is
associated with the printing and distribution of new forms.

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 government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)

The measure will impact birthing facilities with respect to the
processing of in-hospital acknowledgment of paternity
documents. The fiscal impact should be minimal; however, no
dependable data exist for the projection of fiscal impact.

The rule will also allow parents to resolve paternity issues
without incurring court charges or attorney's fees, reduce the
number of paternity cases presented to the courts and allow
resolution of some paternity issues without legal counsel.

IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

The measure should have no significant impact on competition
and employment.

Eric T. Baumgartner, M.D., M.P.H.
Assistant Secretary
9409#074

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the
Secretary, Bureau of Health Services Financing, is proposing
to adopt the following rule in the Medicaid Program as
authorized by R.S. 46:153 and pursuant to Title XIX of the
Social Security Act. This proposed rule is in accordance with
the provisions of the Administrative Procedure Act, R.S.
49:950 et seq.

The Bureau of Health Services Financing adopted a rule on
the Mental Health Rehabilitation Program to incorporate the
guidelines and interpretations of the Health Care Financing
Administration on April 20, 1993. This rule was published in
the *Louisiana Register*, Volume 19, No. 4. The following
proposed rule establishes service limits for certain mental
health rehabilitation services and revises the definition of
treatment integration to ensure the inclusion of appropriate
therapeutic principles and skills for this service
component. This rule is proposed to ensure the quality of
these services to the target population.

Proposed Rule

The Bureau of Health Services Financing adopts the
following revisions in the Mental Health Rehabilitation
Program. Daily and monthly service limits are established for
individual counseling and therapy; group counseling and
therapy; family counseling and therapy; treatment integration;
and psychosocial skills training. The annual limitations for
each area of treatment are by calendar year and are as follows:

- 1) medical assessment - 2 per year;
- 2) psychological evaluation - 2 per year;
- 3) psychosocial evaluation - 2 per year;
- 4) other evaluation - 10 per year;
- 5) care plan development - 1 per year;
- 6) care plan update - 5 per year;

- 7) collateral contact - 52 per year;
- 8) counseling therapy - (30 minute units) - 208 per year (includes individual, family and group counseling);
- 9) treatment integration - (30 minute units) - 1040 per year;
- 10) psychosocial skills training (1 hour units) - 780 per year;
- 11) medication administration - 52 per year;
- 12) medication monitoring - 52 units per year;
- 13) crisis intervention (30 minute units) - 48 per year; and
- 14) crisis support (1 hour units) - 432 per year.

Specific limitations for daily and monthly limitations for each service are referenced in the Medical Services Manual for Mental Health Rehabilitation Services distributed by the fiscal intermediary. These limitations are based upon service utilization review and consultation with the professional staff of the Office of Mental Health regarding the appropriate service needs of the target population. In addition the definition for the service treatment integration has been revised as follows. Treatment integration is a secondary service to therapy services and psychosocial skills training. Services include integrating therapeutic principles and skills into the recipient's natural environment and daily routine; implementation of a person's behavior management plan; specialized 1:1 assistance within a group setting; and/or physical management of a person who is engaged in violent or other disruptive behavior. Treatment integration may be provided in conjunction with other mental health rehabilitation services except crisis services.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing has been set for Tuesday, October 25, 1994, in the auditorium of the Department of Transportation and Development at 1201 Capitol Access Road, Baton Rouge, La. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing at said hearing. Written comments will be received until 4:30 P.M. on the day following the public hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mental Health Rehabilitation Services**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated cost to the state associated with the implementation of this proposed rule and it is estimated that this proposed rule will save the state approximately \$2,583,062 each year for state fiscal years 1995, 1996 and 1997.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated effect on state government revenue collections is a decrease of \$6,861,405 each year for state fiscal years 1995, 1996, and 1997. There is no estimated effect on revenue collections on local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The above reductions in federal revenues combined with the state match reductions represent decreased payments of \$9,444,467 each year to providers of mental health rehabilitation services for Medicaid recipients over the next three years based on the current year budget allocation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Established service limits may increase competition among mental health rehabilitation services providers for new recipients eligible for these services.

Thomas D. Collins
Director
9409#070

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Minimum Standards for Licensure of 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. 40:2009.31-40. Regulations governing home health agencies were last revised effective January 1992 and referenced in the *Louisiana Register*, Volume 18, No. 1 page 57. These regulations are contained in the Louisiana Administrative Code, Title 48, Part I. General Administration, Subpart 3. Licensing and Certification, Chapter 91. Since that time there has been a tremendous expansion of home health agencies as well as the growth in utilization of these services by Louisiana's citizens. Therefore, in order to ensure that the licensure standards for these agencies incorporate all necessary safeguards to protect and promote the health and welfare of persons in need of home health services, the department adopted an emergency rule on July 22, 1994 which established new licensure regulations for home health agencies to be licensed on or after July 22, 1994. This emergency rule was referenced in the August 1994 issue of the *Louisiana Register*, Volume 20, No. 8. The provisions of this emergency rule are incorporated in the proposed rule which is hereby proposed for adoption by reference.

Proposed Rule

The Bureau of Health Services Financing proposes to adopt the following regulations which will govern the licensure of home health agencies licensed on or after adoption of this proposed rule. This rule shall replace and supercede the emergency rule promulgated on July 22, 1994. This rule will continue to regulate those home health agencies licensed on or after July 22, 1994 and which were subject to the emergency rule. The provisions of the Minimum Standards for Home Health Agencies as revised on January 20, 1992 and referenced in the *Louisiana Register*, Volume 18, No. 1 page 57 and found at LAC: 48:I Chapter 91 shall remain in effect

and govern home health agencies issued licenses prior to July 22, 1994 (the effective date of the emergency rule) and shall continue to regulate these agencies until July 22, 1995. On July 23, 1995, the provisions of this proposed rule shall govern all home health agencies, regardless of date of issuance of license. Home health agencies must deliver home health services in compliance with all federal and state laws and regulations.

A copy of the proposed rule may be obtained from the Office of the State Register or the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing.

Interested persons may submit written comments on this proposed rule to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. A public hearing will be held on this matter at 9:30 a.m., Monday, October 31, 1994, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally. The deadline for receipt of all comments is 4:30 p.m. on the day following the public hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Minimum Standards for Licensure of Home Health Agencies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to the state associated with the implementation of this proposed rule is \$500 for administrative expenditures for SFY 1995 and \$50,953 for services expenditures for SFY 1996 and \$52,847 for SFY 1997.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated revenue collections for state government is an increase of \$500 for SFY 1995 and \$135,347 for SFY 1996 and \$138,856 for 1997. There is no estimated effect on revenue collections on local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that some of the home health agencies licensed prior to July 22, 1994 will experience a cost increase of \$40,500 and \$41,550 in order to meet personnel and insurance requirements for licensure during state fiscal years 1996 and 1997 respectively. However as these providers are cost reimbursed by both Medicaid and Medicare, these expenses will be incorporated in their reimbursement as allowed up to the Medicare reimbursement maximum. There are no costs to Medicaid recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment as a result of this rule.

Thomas D. Collins
Director
9409#068

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Insurance Commissioner of Insurance

Rule 9—Pre-licensing Education Requirements

The commissioner of insurance hereby gives notice of his intent to amend and repromulgate Rule 9 which governs the pre-licensing education of insurance producers. The amendments include a clarification to Section I as regards the statutory authority for issuance of the regulation and the deletion of Section 14 relative to the expiration term of the regulation.

Rule 9—Pre-licensing Insurance Education Advisory Council

I. Purpose. The purpose of this rule is to implement Act 840 of the 1988 Regular Legislative Session by establishing curricula for courses of instruction required to be completed by applicants seeking insurance licenses in the state of Louisiana; to establish criteria for approval of providers of the courses of instruction; to establish a mechanism of examination and review of the performance and quality of the instruction.

II. Authority. This rule is issued pursuant to the authority vested in the commissioner of insurance, R.S. 22:1191, and the Administrative Procedure Act, R.S. 49:950 et seq.

III. Applicability and Scope. This rule shall apply to all applicants seeking a license as an insurance agent, broker or solicitor, who are required by statute to take an insurance examination. Further, this rule shall apply to the providers of the pre-licensing program and the instructors for said programs.

IV. Effective Date. The original effective date of this rule was July 1, 1989. The effective date of the repromulgated rule shall be December 20, 1994.

V. Course Requirements

A. Life, Health and Accident

1. All applicants for life, health and accident licenses as agent, broker or solicitor are hereby required to complete a course of instruction with a minimum of 16 hours of supervised instruction in a structured setting.

2. The curricula shall include the following:

- a. State Regulations
- b. Life Policy Provisions
- c. Whole Life, Term and Endowment Life

Insurance

- d. Life Policy Options
- e. Annuity Contract Provisions
- f. Universal Life Insurance
- g. Credit Life
- h. Rate making and Reserves
- i. Interest Adjusted Cost Index
- j. Disability Income
- k. Accident and Health
- l. Medicare Supplement Insurance
- m. Ethical Practices

B. Property and Casualty

1. All applicants for property and casualty licenses as agent, broker or solicitor are hereby required to complete a course of instruction with a minimum of 32 hours of supervised instruction in a structured setting.

2. The curricula shall include the following:

a. General Insurance, Terms, Types and

Definitions

b. State Insurance Regulations

c. The Law and Insurance

d. Fire and Allied Lines

e. General Liability

f. Inland Marine and Ocean Marine

g. Multi Line Policies

h. Crime Insurance and Fidelity

i. Automobile

j. Surety Bonds

k. Miscellaneous Coverage

l. Workers' Compensation

m. Risk Management

n. Ethical Practices

3. Satisfactory Completion of the Instructional Program. Upon completion of the prescribed course of instruction, the applicant shall be tested by the provider of the program.

4. Exemptions. The requirement for the completion of the instructional course does not apply to any applicant who is exempt from the requirement of an examination under R.S. 22:1167 or any applicant seeking authorization to write industrial fire insurance business only.

5. Concurrent Instructional Courses. When concurrent instructional courses for both life, accident and health and property and casualty are conducted, the repetition of ethical practices and other topics which are redundant shall be waived. However, this does not reduce the minimum required hours of instructional training set forth by the statute.

VI. Provider Requirements

A. Applications for program approval shall be submitted through the Department of Insurance to the Louisiana Insurance Education Advisory Council not less than 60 days prior to the expected use of the program. Each instructional provider applicant shall provide the information set forth herein with its application in the format required by the commissioner as set forth herein.

1. Course outline including a list of resource material used, training aids to be used, detail description of the program, and cost of the program to participants.

2. Schedule of locations where the instructional course will be offered, and schedule of classes depicting time and dates. Any change in the schedule of locations, dates or time of classes shall be filed with the council no later than three days prior to scheduled beginning date.

3. Completion of Appendix 1 for the initial certification of director/supervising instructor to be used in accordance with the requirements and qualifications of instructors set forth herein.

4. Description and location of the facilities to be used in accordance with the requirements set forth herein.

B. Once approved, the provider shall maintain detailed attendance records for all students for all classes for three

years following completion of the classes. The records may be reviewed by the commissioner and the council.

C. The provider shall not allow credit for required hours for any class work which is not conducted under the direct supervision of the course instructor at the approved facility during scheduled classes.

VII. Instructor Qualifications. For the purpose of this section, a distinction of types of providers must be acknowledged when prescribing the specific required qualifications for instructors.

A. An insurance trade association as recognized by the commissioner shall submit for approval the instructor who will be in a supervisory capacity. Said supervisory instructor shall provide the council with qualifications for instructors to be used during the tenure of the instructional course and shall assume the responsibility of assuring the quality of instructional course.

B. An insurance company admitted to do business in the state of Louisiana shall submit for approval the educational director holding educational responsibility for that company. Said director shall submit and have approved a supervisory instructor who may be delegated as the supervisory instructor in charge of the instructional course being given. Company personnel possessing expertise in specific areas of instructional topics will not have to be approved as an instructor. The director and/or supervising instructors holding educational responsibility for the company shall be responsible for assuring the quality of the instructional course.

C. The instructor charged with the responsibility for the instructional course at an accredited public or private college or university shall require approval by the commissioner and the council based in part on the educational background of the instructor and the insurance experience said instructor may possess.

D. Other organizations recommended by the council and authorized by the commissioner shall have a supervising instructor certified and assigned the responsibility of conducting the instructional courses. The approved supervising instructor shall be responsible for any other instructor or guest instructor and shall be responsible for assuring the quality of the instructional course.

E. All instructors must possess the necessary qualifications to enable them to teach the program and to present the instructional material. Special consideration may be granted by the commissioner or the council with commissioner's approval where it is felt that the specific background of the instructor warrants such consideration. The qualifications for instructors shall include as a minimum the following:

1. For supervising instructors, five years of insurance and/or educational experience satisfactory to the commissioner and council.

2. Instructors will not be qualified who have received disciplinary action for insurance related practices by the Louisiana Insurance Department, the Insurance Department of another state, or any similar regulatory body or court.

The commissioner shall have the authority to waive this requirement after a public hearing to determine the applicant's

qualifications has been held and findings of such hearing warrant such a waiver.

F. For all instructors, except those specified in Section B of this part, the supervising instructor shall submit a form Appendix 2 for each instructor who will participate in the instructional course.

VIII. Training Facility Requirements. The provider shall furnish training facility descriptions when applying to become an approved provider of an instructional program. Minimum acceptable training facility characteristics are:

A. an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting, proper furnishing;

B. the facility shall be easily accessible and secure for the safety of the student;

C. the instructional area of the facility should be for the exclusive use for the instructional course while in session;

D. readily accessible human needs should be considered when selecting a facility;

E. training aids, overhead viewing equipment availability and a proper visual layout of the classrooms should be addressed;

F. in the event that proper facilities are not available as previously described, the provider shall furnish specific description of the available facility for approval by the commissioner or the council.

IX. Licensing Procedure of Applicant. The commissioner, Insurance Department staff and the Insurance Education Advisory Council shall have the authority to visit a training facility and review the provider's program at any time. Said visits can include the review of curriculum records, review of attendance records, and observation of instructional sessions in progress, which must be accessible at all times during instructions.

X. Course Completion

A. The required instructional course must be completed prior to the applicant's taking the insurance licensing examination administered by the Insurance Department. The applicant must have successfully completed the instructional course no more that 12 months prior to taking the examination.

B. The supervising instructor of the designated official of the program provider shall provide an original list reflecting each individual who has successfully completed the required course and shall provide a certificate of successful completion to each participant. The list shall contain the name, address and Social Security number of all successful individuals and must be forwarded to the Department of Insurance within 15 working days of course completion.

XI. Fees. A certification fee of \$250 will be charged to each applicant seeking certification of a program of instruction qualify individuals to take an insurance agents licensing examination in the state of Louisiana. The commissioner of insurance may require the posting of a fidelity bond sufficient to safeguard the interests of consumers of this service, however in no event shall such bond exceed \$100,000.

XII. Complaints. The commissioner or the council at the direction of the commissioner shall review all complaints

lodged against the provider or instructor of the program; and such complaints shall be lodged by a notarized affidavit of a student of said course. A hearing may be called for the purpose of investigating the complaint and/or taking necessary action to resolve the complaint. Any disciplinary action required shall be taken by the commissioner in accordance with Part 29 of the Louisiana Insurance Code, R.S. 22:1351-67.

XIII. Violations. Pursuant to the authority of the commissioner, the approval of a provider's program of instruction may be suspended or revoked for violation of the rule set forth herein and/or any pertinent provisions of the Louisiana Insurance Code, R.S. 22:1351-67.

XIV. Expiration Date

A. The rule set forth herein shall be reviewed by the Insurance Education Advisory Council every three years to determine if modifications to the rule are necessary.

B. In the event modification of this rule is thought to be necessary, a notice of hearing shall be given in accordance with the provisions of R.S. 22:1354(C).

APPENDIX 1

PRE-LICENSING PROVIDER APPLICATION

TO: STATE OF LOUISIANA
COMMISSIONER OF INSURANCE
LICENSING DIVISION
P.O. BOX 94214
BATON ROUGE, LOUISIANA 70804-9214

APPLICATION FOR APPROVAL AS A PRE-LICENSING PROVIDER OF INSURANCE COURSES PURSUANT TO ACT 840 OF THE 1988 REGULAR LEGISLATIVE SESSION.

NAME OF PROVIDER _____
ADDRESS _____
CONTACT PERSON _____
TELEPHONE NUMBER _____

(ATTACH THE ITEMS LISTED BELOW)

- 1) COURSE OUTLINE (GIVING TIME ALLOTTED TO EACH SUBJECT)
- 2) LIST OF RESOURCE MATERIAL
- 3) RESUME OF SUPERVISING INSTRUCTOR OR DIRECTOR
- 4) DESCRIPTION OF TRAINING FACILITIES TO BE USED
- 5) CLASS SCHEDULES AND LOCATIONS
- 6) COST TO PARTICIPATE

(PROVIDER)

(SIGNATURE OF PROVIDER REPRESENTATIVE)

(DATE)

FOR DEPARTMENT USE ONLY

APPROVED BY: _____ DATE _____

DISAPPROVED BY: _____ DATE _____

APPENDIX 2

PRE-LICENSING INSTRUCTOR APPLICATION
APPLICATION FOR APPROVAL AS AN INSTRUCTOR OF
PRE-LICENSING INSURANCE COURSES PURSUANT TO ACT 840 OF
THE 1988 REGULAR LEGISLATIVE SESSION.

PROVIDER
INSTRUCTOR
ADDRESS
PHONE
OCCUPATION
QUALIFICATIONS

I have or have not received disciplinary action for insurance
related practices by the Louisiana Insurance Department, the Insurance
Department of another state, or any similar regulatory body or court.

SIGNATURE OF INSTRUCTOR

SIGNATURE OF SUPERVISING INSTRUCTOR

FOR DEPARTMENT USE ONLY

APPROVED BY: DATE
DISAPPROVED BY: DATE

The effective date for the proposed amendments and
repromulgation of Rule 9 is scheduled to be December 20,
1994.

Interested parties may submit comments on the proposed
regulation until 4:30 p.m., October 25, 1994 to Teri Taylor,
Licensing Division, Department of Insurance, Box 94214,
Baton Rouge, LA 70804-9214 or by telephone at (504)
342-0861.

James H. "Jim" Brown
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Rule 9—Pre-licensing Education Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the Department of Insurance will
incur any costs or savings as a result of implementing this
regulation. The regulation does not impose any new duties on
the department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this regulation will not have any effect on
revenue collections by the state or local governmental units.
There are no fees, fines or other revenue generating activities
imposed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that there will be an effect on the cost or
any economic benefits to the pre-licensing education providers
or the insurance agents, brokers or solicitors.

IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

It is not anticipated that there will be any effect on

competition or employment resulting from the adoption of this
regulation.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9409#072

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT
Department of Insurance
Commissioner of Insurance

Rule 10—Continuing Education

The commissioner of insurance hereby gives notice of his
intent to amend and repromulgate Rule 10 which governs the
continuing education of insurance agents, brokers and
solicitors. The proposed amendments affect Sections 10.3B,
10.4B, 10.4C, 10.6G, 10.15, and 10.17. The changes to
Section 10.3 and 10.4C are necessitated by changes in the
law. The other amendments are being done to clarify the
rule.

10.1. Statutory Authority

The statutory authority for this regulation is Act 428 of the
1989 regular legislative session of the Louisiana legislature.
This rule is issued pursuant to the authority vested in the
commissioner of insurance, R.S. 22:1193, and the
Administrative Procedure Act, R.S. 49:950 et seq.

10.2 Purpose

The purpose of this regulation is to protect the public,
maintain high standards of professional competence in the
insurance industry, and maintain and improve the insurance
skills and knowledge of agents, brokers, and solicitors licensed
by the Department of Insurance. This shall be accomplished
by prescribing: minimum standards of education in approved
subjects that a licensee must periodically complete; procedures
and standards for the approval of such education; and a
procedure for establishing that continuing education
requirements have been met.

10.3 Basic Requirements

A. As a condition for the continuation of a license, a
licensee must furnish the Department of Insurance
(commissioner), prior to the licensing renewal date, proof of
satisfactory completion of approved subjects or courses having
the required minimum hours of continuing education credit
during each two-year licensing period.

- 1. Life-health license 16 hours
only
2. Property-casualty 24 hours
license only
3. Combination of both 12 hours life-health
P-C & L-H) licenses 20 hours property-casualty
4. Bail bond License 12 hours

B. Failure to fulfill the continuing education requirements
prior to the filing date for license renewal shall cause the
license to write insurance to lapse. For a period of two years
from the date of lapse of the license, the license may be
renewed upon proof of fulfilling all continuing education
requirements through the date of reinstatement and payment of
all fees due. If the license has lapsed for more than two

years, the license may be renewed only by fulfilling the requirements for issuance of a new license. Any licensee who fails to file timely for license renewal shall be charged a late fee of \$25 in accordance with R.S. 22:1113(E)(3).

C. Property-casualty insurance agents shall complete 24 hours of approved instruction prior to each license renewal, beginning with renewals effective in 1993. Life-health insurance agents shall complete 16 hours of approved instruction prior to each license renewal, beginning with renewals effective in 1994. Each course to be applied toward satisfaction of the continuing education requirement must have been completed within the two-year period immediately preceding renewal of the license; with the exception of up to 10 excess hours carried forward from the previous two-year renewal period which have not been used previously to comply with continuing education requirements.

D. Agents authorized to write both life-health and property-casualty insurance shall complete 20 hours of approved property-casualty instruction prior to each property-casualty license renewal beginning with renewals effective in 1993. These agents shall also complete 12 hours of approved life-health instruction prior to each life-health license renewal beginning with renewals effective in 1994. Each course to be applied toward satisfaction of the continuing education requirements must have been completed within the two-year period immediately preceding renewal of the license; with the exception of up to 10 excess hours carried forward from the previous two-year renewal period which have not been used previous to comply with continuing education requirements.

10.4 Applicability

A. This regulation applies to all resident agents, brokers, and solicitors licensed by the Department of Insurance. Further, this rule shall apply to the providers of continuing education programs and instructors for such programs.

B. This regulation applies to all nonresident agents, brokers and solicitors licensed by the Department of Insurance. However, nonresident licensees subject to continuing education requirements in their home state shall be exempt from this regulation.

C. This requirement for the completion of continuing education shall not apply to the following:

1. specialty classes of licenses including industrial fire, industrial life and health, credit life, credit health and accident, credit property, accidental death and dismemberment and/or vendor single interest which is written solely in connection with credit transactions, title, travel, baggage, fraternal, auto clubs, service or burial, and other limited licenses.

2. licensees that are at least 65 years of age and have a minimum of 15 years experience as an agent, broker or solicitor and are also either:

- a. retired or inactive and receive social security benefits; or

- b. only represent or operate through a licensed domestic companies.

3. a new licensee who has completed an approved precensuring education course is exempt from continuing education requirements under this rule for the first license renewal only. Thereafter the new licensee will be subject to all continuing education requirements.

D. The Department of Insurance anticipates and expects that licensees will maintain high standards of professionalism in selecting quality education programs to fulfill the continuing education requirements.

10.5 Insurance Education Advisory Council

A. The Insurance Education Advisory Council, comprised of representatives from each segment of the insurance industry, shall be appointed by the commissioner of insurance to perform the following duties:

1. approve or disapprove programs as per the standards of this regulation and assign the number of continuing education hours to be awarded to programs that are approved.

2. consider applications for exceptions as permitted under rule of this regulation; and

3. consider other related matters as the commissioner may assign.

B. The Department of Insurance shall provide all members of the Insurance Education Advisory Council timely written notice of all council meetings. The members present at any meeting of the Insurance Education Advisory Council shall be deemed to be a quorum for purposes of acting to perform the duties of the council pursuant to this regulation. Matters before the Insurance Education Advisory Council may be decided by a majority of those members present. In the event of a tie vote, the chairman shall vote to break the tie.

C. Decisions or rulings of the Insurance Education Advisory Council in performance of the duties set forth herein shall have the effect of decisions or rulings of the Department of Insurance, but are subject to review and approval by the commissioner.

10.6 Program Requirements

A. All continuing education programs are subject to review and approval by the Insurance Education Advisory Council and certification by the commissioner. Each program must be submitted to the Insurance Education Advisory Council in accordance with this rule on forms promulgated by the commissioner (Appendix 1 to this regulation) not less than 60 days prior to the expected use of the program.

B. If a program is not approved in advance of presentation, a retroactive application for credit may be submitted to the Insurance Education Advisory Council within 60 days of completion of the course on forms promulgated by the commissioner (Appendix 1 to this regulation). All correspondence courses or individual study programs must be approved and certified in accordance with this rule prior to being offered to licensees for continuing education credit.

C. Any course which has not been approved by the Insurance Education Advisory Council and certified by the commissioner before the date on which it is to be presented shall not be represented or advertised on any manner as "approved" for continuing education credit.

D. Courses Which Qualify

1. A specific course will qualify as an acceptable continuing education program if it is a formal program of learning which contributes directly, to the professional competence of a licensee. It will be left to each individual licensee to determine the course of study to be pursued. All programs must meet the standards outlined in the Rule.

2. Subjects which Qualify

a. The following general subjects are acceptable as long as they contribute to the knowledge and professional competence of an individual licensee as an agency, broker, or solicitor and demonstrate a direct and specific application to insurance:

- i. insurance and risk management;
- ii. insurance laws, regulations and ethics;
- iii. courses in economics, business, management, computers, finance, taxes and laws which relate specifically to the insurance business.

b. Areas other than those listed above may be acceptable if the licensee can demonstrate that they have direct and specific application to insurance and contribute to professional competence and otherwise meet the standards set forth in this regulation. The responsibility for substantiating that a particular program meets the requirements of this regulation rests solely upon the licensee.

E. Courses which do not Qualify

1. Any course used to prepare for taking an insurance licensing examination.

2. General computer courses not specifically related to the insurance business.

3. Motivation, psychology, communications or sales training courses.

4. General business courses not specifically related to the insurance business.

5. Any program not directly and specifically applicable to the insurance business.

F. In order to qualify for credit, the following standards must be met by all continuing education courses:

1. Course Development

a. The program must have significant intellectual or practical content to enhance and improve the insurance knowledge and professional competence of participants.

b. The program must be developed by persons who are qualified in the subject matter and instructional design.

c. The program content must be current and up to date.

2. Course Presentation

a. Instructors must be qualified, both with respect to programs content and teaching methods. Instructors will be considered qualified if, through formal training or experience, they have obtained sufficient knowledge to instruct the course completely.

b. The number of participants and physical facilities must be consistent with the teaching method specified.

c. All programs must include some means for evaluating the quality of education provided.

G. Any provider organization intending to provide classes, seminars, or other forms of instruction as approved subjects shall apply for program approval on following forms promulgated by the commissioner for approval by the Insurance Education Advisory Council.

1. For the initial approval of a provider organization, Appendix 3 - Request For Provider Approval must be submitted with appropriate history and resume of the organization necessary to establish credibility as a CE provider. Appendix 3 also lists additional information which must be provided. The provider applicant must substantiate the experience and ability of the provider organization to provide quality CE programs.

2. Appendix 1 to this regulation - NAIC Request For Program/Course Approval.

3. Division A and B providers must furnish an outline of the subject matter to be covered with time specifications for presentation.

4. Division C, D, and E providers must furnish an actual copy of the student workbook and materials, along with time specifications for presentation and a list of resource material used, training aids used, and the method of presentation.

a. If a provider submits a course with materials published by a recognized publisher of insurance education materials, each and every student must be provided with a complete original text from that publisher as part of the registration for the approved continuing education course. No substitute texts, outlines, summaries or copyright infringements will be allowed.

b. Proprietary student materials of the provider must be submitted to the Insurance Education Advisory Council for approval on their own merits and must not infringe on the copyright of existing materials.

5. If multiple presentations of a program will be made, an Appendix 2 - Training Schedule must be included. The outline shall include schedule and description of locations where the program will be offered including dates and times. Any change in this schedule of locations, dates or time of classes shall be filed with the Department of Insurance not less than three days prior to the scheduled beginning date.

6. Appendix 4 - Request for Instructor Approval along with resumes and qualifications of the instructors must be submitted in compliance with Section 10.8 of this rule.

7. Other information supporting the request for approval as outlined in this rule must be provided to the Insurance Education Advisory Council for consideration of the course approval. The submission must provide the council with sufficient information to substantiate that the course provides an appropriate subject matter, of sufficient degree of advanced study, with quality written student materials, and taught by quality experienced instructors.

H. The submission shall include a statement of the method used to determine whether there has been a positive achievement of education on the part of the agent being certified. Such method may be a written examination, a written report by the agent, certification by the providing organization of the agent's program attendance or completion, or other method approved by the council as appropriate for the subject.

I. Each course application shall be accompanied by a nonrefundable application fee of \$25.

J. Upon receipt of such material, the Insurance Education Advisory Council will approve or deny the course or program as qualifying for credit, indicate the number of hours that will be awarded for approved subjects, and refer the class, seminar, or program to the commissioner for his certification. In cases of denial, the Insurance Education Advisory Council shall furnish a written explanation of the reason for such action.

K. The department will provide, upon request, a list of all programs currently available which the Department of Insurance has certified.

L. Certification of a program may be effective for a period of time not to exceed three years or until such time as any material changes are made in the program, after this time the program must be recertified by the Insurance Education Advisory Council.

M. Licensees who attend programs that are not approved for CE credit because of a small attendance by Louisiana licensees, may apply to the Insurance Education Advisory Council for individual approval of the course by complying with the standard submission procedures outlined in this rule and the payment of the \$25 submission fee.

10.7 Provider Requirements

A. All continuing education provider organizations are subject to review and approval by the Insurance Education Advisory Council and certification by the commissioner. CE providers must demonstrate their ability to provide quality education programs with appropriate subjects, quality student materials, and instructors with the knowledge, experience and teaching skills necessary to improve the professional level of licensees. Applications for provider approval shall be submitted through the Department of Insurance to the Louisiana Insurance Education Advisory Council not less than 60 days prior to the first submission for program approval. Each education provider applicant shall provide all necessary information in the format set forth in this rule. The provider application shall include:

1. a completed Appendix 3 - Request For Provider Approval with the additional information listed;

2. qualifications of the education provider organization including but not limited to the past experience of the provider in conducting insurance education programs, sufficient to establish that the organization will provide quality CE courses;

3. completion of Appendix 4 - Request for Instructor Approval and résumé in accordance with the requirements and qualifications of instructors set forth in this rule for the initial certification of the director/supervising instructor;

4. Administrative and Reporting Requirements Survey (Appendix 7) and supporting materials necessary to establish that the provider will comply with all reporting requirements of this rule and provide students with the administrative support necessary to comply with CE requirements;

5. the complete name, address, and description of the training facilities to be used sufficient to establish compliance with Section 10.9 of this rule requiring adequate facilities for proper training;

6. a schedule of registration fees and student costs to participate in programs;

7. program submission as outlined in Section 10.6 of this rule including but not limited to a complete copy of all student materials or course outline used, list of resource materials, detailed description of programs, detailed time distribution of presentation, resume and qualifications of specific instructors which will teach each program, and class schedules and locations. Refer to Section 10.6 for details.

B. Insurance agent, broker or solicitor organizations, their parent or subsidiary organizations will not be approved as a continuing education provider for the primary purpose of providing continuing education for their licensed employees.

C. Each provider application shall be accompanied by a nonrefundable application fee of \$250.

D. Once approved, the provider shall maintain detailed attendance records for all students for all classes for three years following completion of all classes. Records must be maintained in computer format compatible with Insurance Department specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the Insurance Department. The provider must complete Appendix 7 - Administrative and Reporting Requirements Survey to establish these capabilities, and must work with Insurance Department computer personnel to maintain the required computer reporting records. The provider must also maintain a physical office facility adequate for the proper storage of records, and administrative staff necessary to facilitate the proper administration of CE requirements for student licensees. Provider records may be reviewed by the commissioner and the council.

E. The provider shall not allow credit for required hours for any work which is not conducted under the direct supervision of the course instructor at the approved facility during scheduled classes.

10.8 Instruction Requirements

A. Insurance trade associations, insurance companies, accredited public colleges and universities, and nationally recognized insurance professional designation programs as recognized by the commissioner (Division A and B providers) shall submit for approval the education director who will be certified to serve in a supervisory capacity. The education director shall be assigned the responsibility for verifying the qualifications of any other instructors used by the provider and shall be responsible for assuring the quality of all education courses.

B. Other organizations recommended by the council and authorized by the commissioner shall have an education director certified. The education director must submit a form Appendix 4 for each instructor who will participate in any course conducted by the provider. The Insurance Education Advisory Council must approve each instructor and course. The approved education director shall be responsible for any other instructor or guest instructor and shall be responsible for assuring the quality of all education courses.

C. All instructors must possess the necessary qualifications to enable them to teach the program and to present the instructional material. Special consideration may be granted by the commissioner or the council with the commissioner's approval where it is felt that the specific background of the instructor warrants such consideration. The qualifications for instructors shall include as a minimum the following:

1. for education directors and supervising instructors, five years of insurance and/or education experience satisfactory to the commissioner and council;

2. instructors will not be qualified who have received disciplinary action for insurance related practices by the Louisiana Insurance Department, the Insurance Department of another state, or any similar regulatory body or court;

3. expertise and experience in the specific subject area to be taught, professional designations or other credentials which indicate a technical mastery of the subject;

4. experience in teaching, instruction or public speaking which indicate an ability to present the subject matter.

D. The commissioner shall have the authority to waive this requirement after a public hearing to determine the applicant's qualifications has been held and findings of such hearing warrant such a waiver.

10.9 Training Facility Requirements

A. The provider shall furnish training facility descriptions when applying to become an approved provider of an instructional program. Minimum acceptable training facility characteristics must be maintained at all times.

B. An atmosphere conducive to the education presentation shall be maintained, including good housekeeping, controlled environment as to heating and cooling, proper lighting, and proper furnishings.

C. The facility shall be easily accessible and secure for the safety of the student.

D. The instructional area of the facility should be for the exclusive use for the instructional course while in session.

E. Readily accessible human needs should be considered when selecting a facility.

F. Training aids, overhead viewing equipment availability and a proper visual layout of the classrooms should be addresses.

G. In the event that proper facilities are not available as previously described, the provider shall furnish specific description of the available facility for approval by the commissioner or the council.

10.10 Measurement of Credit

A. Professional education courses shall be credited for continuing education purposes in full hours only. The number of hours shall be equivalent to the actual number of contact hours - number of hours in the classroom in instruction or participation. Each hourly period must include at least 50 minutes of continuous instruction or participation. For this purpose, a one-day program will be granted eight hours credit if the total lapsed time is approximately eight hours and the contact time is at least 400 minutes.

B. University or college upper division credit or noncredit courses shall be evaluated as follows: each semester system credit hour shall not exceed eight hours toward the requirement; each quarter system credit hour shall not exceed four hours. The final number of credits shall be determined by the Insurance Education Advisory Council.

C. Credit hours for individual study programs shall be determined by the Insurance Education Advisory Council. The council shall determine a reasonable number of CE credit hours which will be subject to a limitation that the licensee may only receive credit for a maximum of 50 percent of the required CE hours from individual study programs.

D. The total continuing education credit hours required for license renewal are limited by the following percentages for each of the following education divisions:

CONTINUING EDUCATION CREDIT CHART

100%	DIVISION A	National Professional Designations CPCU, CLU, ARM CHFC, CIC, etc.
100%	DIVISION B	Agent Associations Colleges and Universities Insurance Companies
100%	DIVISION C	Proprietary Schools
50%	DIVISION D	Individual Study
25%	DIVISION E	Miscellaneous General Interest Public Speaking General Interest Association Programs

E. Example of CONTINUING EDUCATION CREDIT CHART (Rule 10.10.D)

Single license property-casualty

Continuing education credit hours required: 24 CE hours

Maximum CE hours for each division

A	DIVISION HOURS	24
B	DIVISION HOURS	24
C	DIVISION HOURS	24
D	DIVISION HOURS	12
E	DIVISION HOURS	4

F. The number of continuing education credit hours will be limited to a maximum of eight hours per day of instruction. Continuing education credit hours will not be approved for programs conducted during meal functions unless the education presentation is completely separate from the meal function. The maximum number of continuing education credit hours which will be approved for any single course will be 24 credit hours for property-casualty courses and 16 credit hours for life-health courses.

G. Qualified continuing education programs earning a graduate level professional designation such as CPCU, CLU, CHFC, etc., will be subject to special rules as contained in this Paragraph. Qualified graduate level national designation programs which provide individual study courses shall be exempt from the requirement to pass an examination with a score of 70 percent or better to earn a certificate of completion, as outlined in Rule 10.13.B. Licensees which successfully pass a qualified graduate level national designation program examination shall earn 24 continuing education credit hours for property-casualty courses and 16 continuing education credit hours for life-health courses. Licensees which complete and fail a qualified graduate level national designation program examination shall earn 50 percent credit; 12 continuing education credit hours for property-casualty courses and eight continuing education credit hours for life-health courses.

10.11 Controls and Reporting

A. Upon completion of a class, program or course of study, the instructor or sponsoring organization shall, within 60 days of completion of the course, provide a certificate of completion (Appendix 5 to this regulation) to each individual who satisfactorily completes the class, program or course of study. The certificate of completion shall bear the seal of the education provider organization. The provider must also maintain computer records of course completion in a format compatible with Insurance Department standards. Providers must report course completion records to the Insurance Department as requested.

B. Licensees must submit with the application for renewal of a license a signed continuing education statement, under oath, on a form prescribed by the department (Appendix 6 to this regulation), listing the courses that have been taken in compliance with this regulation.

C. The original certificates of completion for each educational program or course shall be retained by the licensee as evidence of completion of the program or course for the most recent two-year renewal period. The licensee shall provide the Department of Insurance with these original certificates as proof of completion upon request of a formal audit.

D. The continuing education statements submitted by licensees will be reviewed by the Department of Insurance and may be verified by a formal audit by the department. If a continuing education statement submitted by an applicant for license renewal, as required by this regulation, is not approved, the applicant shall be notified and administrative action shall be taken.

E. The responsibility for establishing that a particular course or other program for which credit is claimed is acceptable and meets the continuing education requirements set forth in this regulation rests solely on the licensee.

10.12 Program Review - Disciplinary Action

A. The commissioner, Insurance Department staff and the Insurance Education Advisory Council shall have the authority to visit a training facility and review the provider's program at any time. Said visits can include the review of curriculum records, review of attendance records, and observation of instructional sessions in progress, which must be accessible at all times during instruction.

B. The certificate of a provider or program may be suspended by the commissioner if he determines that:

1. the program teaching method or program content no longer meet the standards of this regulation, or have been significantly changed without notice to the commissioner for its recertification; or

2. the provider certified to the commissioner that an individual had completed the program in accordance with the standards furnished for certification or completion of the program, when in fact the individual has failed to do so; or

3. individuals who have satisfactorily completed the program of study in accordance with the standards furnished for certification or completion were not so certified by the provider or instructor; or

4. there is other good and just cause why certification should be suspended.

C. Suspension shall be subject to notice and hearing in accordance with Part 29 of the Louisiana Insurance Code, R.S. 22:1351-67.

D. Reinstatement of a suspended certification may be made upon the furnishing of proof satisfactory to the commissioner that the conditions responsible for the suspension have been corrected.

E. The commissioner or the council at the direction of the commissioner shall review all complaints lodged against a provider or instructor of a program. Such complaints shall be lodged by a notarized affidavit of a student of said course. A hearing may be called for the purpose of investigating the complaint and/or taking necessary action to resolve the complaint. Any disciplinary action required shall be taken by the commissioner in accordance with Part 20 of the Louisiana Insurance Code, R.S. 22:1351-67.

10.13 Credit for Individual Study Programs

A. Credit hours for individual study programs shall be determined by the Insurance Education Advisory Council. The council shall determine a reasonable number of CE credit hours which will be subject to a limitation that the licensee may only receive credit for a maximum of 50 percent of his required CE hours from individual study programs.

B. Qualified graduate level national designation programs shall be exempt from the requirement to pass an examination with a score of 70 percent or better to earn a certificate of completion as outlined in this Paragraph.

Refer to Rule 10.10.G for special rules applicable to these graduate level national programs.

C. Insurance companies admitted to do business in the state of Louisiana, insurance trade associations as recognized by the commissioner, and accredited public or private colleges or universities may be recognized as providers of independent study courses. Other organizations recommended by the council and authorized by the commissioner may be approved as providers of independent study courses if they meet one of the following qualifications:

1. five years or more experience as a recognized insurance education provider of independent study courses;

2. accreditation by a national education organization. All individual study program must be submitted for approval by the organization which complies or publishes the course materials. All individual study courses must be approved prior to being offered to licensees for continuing education credit. Any such course approval is not transferable to any other entity.

D. Continuing education credit for individual study programs must be applied to the current license renewal and may not be carried over to subsequent license renewals. No individual study program will be certified for more than 24 continuing education credit hours for property-casualty courses or 16 continuing credit hours for life-health courses.

E. Qualified individual study program providers (example: national publishing companies) may not contract their provider status to other CE providers. The integrity of materials and testing are the responsibility of the approved provider and must be maintained under their direct control. Local CE providers may act as vendors or marketing agents of approved

individual study program providers as long as the provider controls the materials and testing.

10.14 Credit for Service as Instructor

A. One hour of continuing education credit will be awarded for each hour completed as an instructor or discussion leader, provided the class or program is certified by the commissioner and meets the continuing education requirements of those attending.

B. Credit for instruction will only be granted once for each course or program, not for successive presentation of the same course.

10.15 Effective Date

This regulation shall be effective December 20, 1994.

HISTORICAL NOTE: Promulgated by the Department of Insurance March 30, 1991.

10.16 Separability

If any provision of this regulation is for any reason held to be invalid, the remainder of the regulation shall not be affected thereby.

10.17 Expiration Date

A. The rule set forth herein shall be reviewed by the Insurance Education Advisory Council every three years to determine if modifications to the rule are necessary.

B. In the event modification of this rule is thought to be necessary, a notice of a hearing shall be given in accordance with the provisions of R.S. 22:1354C.

Appendix 2

CONTINUING EDUCATION PROVIDER TRAINING SCHEDULE

TRAINING PROVIDER

TRAINING LOCATION

TELEPHONE NUMBERS

INSTRUCTOR(S)

DATE TIME LOCATION

SIGNATURE OF SUPERVISING INSTRUCTOR

Rev. 8/1/94

Appendix 3

CONTINUING EDUCATION PROVIDER APPLICATION

TO: STATE OF LOUISIANA
COMMISSIONER OF INSURANCE
LICENSING DIVISION
P. O. BOX 94214
BATON ROUGE, LA 70804-9214

APPLICATION FOR APPROVAL AS A PROVIDER OF CONTINUING EDUCATION COURSES PURSUANT TO ACT 428 OR THE 1989 REGULAR LEGISLATIVE SESSION.

NAME OF PROVIDER _____
ADDRESS _____
CONTACT PERSON _____
TELEPHONE NUMBER _____

ATTACH THE FOLLOWING

1. COURSE OUTLINE (GIVING TIME ALLOTTED TO EACH SUBJECT)
2. LIST OF RESOURCE MATERIAL
3. RESUME OF SUPERVISING INSTRUCTOR OR DIRECTOR
4. DESCRIPTION OF TRAINING FACILITIES TO BE USED
5. CLASS SCHEDULES AND LOCATIONS
6. COST OF PARTICIPATION
7. APPENDIX 7 (ADMINISTRATIVE AND REPORTING REQUIREMENTS SURVEY)

(PROVIDER)

(SIGNATURE OF PROVIDER REPRESENTATIVE)

(DATE)

FOR DEPARTMENT USE ONLY

APPROVED BY: _____ DATE: _____

DISAPPROVED BY: _____ DATE: _____

Rev. 8/1/94

Appendix 4

CONTINUING EDUCATION INSTRUCTOR APPLICATION

APPLICATION FOR APPROVAL AS AN INSTRUCTOR OF CONTINUING EDUCATION INSURANCE COURSES PURSUANT TO ACT 428 OF THE 1989 REGULAR LEGISLATIVE SESSION.

PROVIDER _____
 INSTRUCTOR _____
 ADDRESS _____
 TELEPHONE _____
 OCCUPATION _____

Qualifications _____

I have _____ or have not _____ received disciplinary action for insurance related practices by the Louisiana Insurance Department, the Insurance Department of another state, or any similar regulatory body or court.

 Signature of Instructor

 Signature of Supervising Instructor

FOR DEPARTMENT USE ONLY
 APPROVED BY: _____ DATE: _____
 DISAPPROVED BY: _____ DATE: _____

Rev. 8/1/94

Appendix 5
CONTINUING EDUCATION
CERTIFICATE

This Certificate of Completion will be accepted as evidence the person named herein has complied with the Continuing Education requirements mandated by the Department of Insurance in the state of

LOUISIANA

 Name of Education Provider

 Provider Authorization No.

_____ Name of Agent	_____ Agent License No.	_____ Social Security No.
_____ Course Title		_____ Course Number
_____ Course Completion Date		_____ Credit Hours Earned
_____ Signature of Authorized Instructor		_____ Date:
_____ Signature of Agent		_____ Date:

The Department of Insurance makes the agent responsible for using this certificate to meet state requirements.

ATTENTION: A copy of this Certificate must be filed with the Department of Insurance.

Rev. 8/1/94

Appendix 6

CONTINUING EDUCATION STATEMENT

I, hereby certify under penalty of perjury that I have completed the required number of hours for renewal of my license as required by Rule No. 10 of the Department of Insurance.

Course Title	Course No.	Completion Date	Education Provider	Hours Earned
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

ALL CREDITS MUST BE APPROVED BY THE LOUISIANA DEPARTMENT OF INSURANCE.

I, hereby certify that the information provided above, to the best of my knowledge, is complete and accurate and that I did in fact attend the above listed courses for the number of hours indicated.

DATED this ___ day of _____, 19 __.

(Signature)

(Name, Typed or Printed)

(Social Security Number)

(Agents License Number)

Rev. 8/1/94

Appendix 7

**LOUISIANA INSURANCE EDUCATION ADVISORY COUNCIL
CONTINUING EDUCATION PROVIDERS
ADMINISTRATIVE AND REPORTING REQUIREMENTS SURVEY**

PROVIDER NAME: _____
ADDRESS: _____

1. How long has the organization provided insurance continuing education?

Explain: _____

2. Staff Levels:

Please provide the following information for all staff (including administrative) involved with providing continuing education in Louisiana.

STAFF NAME	JOB DESCRIPTION POSITION	AVERAGE HOURS/WEEK CE LOUISIANA
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- _____
- _____
- _____
- _____
- _____

3. Do you have a commercial business location for transaction of business and record maintenance?
 Yes No Location: _____

4. Do you maintain student records on computer?
 Yes No
 Type of System: _____

Signature: _____ Date: _____
 Name: _____ Position: _____

Revised 8/1/94

The effective date for the proposed amendments and repromulgation of Rule 10 is scheduled to be December 20, 1994.

Interested parties may submit comments on the proposed regulation until 4:30 p.m., October 25, 1994 to Teri Taylor, Licensing Division, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, or by telephone at (504) 342-0861.

James H. "Jim" Brown
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rule 10—Continuing
Education Guidelines**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that there will be an effect on the cost or any economic benefit to the continuing education providers or the insurance agents, brokers and solicitors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that there will be any effect on either competition or employment resulting from the adoption of this regulation.

Brenda St. Romain
Assistant Commissioner
9409#073

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation**

Insurance Cost Containment (LAC 40:I.1123-1129)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation hereby gives notice that rulemaking procedures have been initiated to amend the Insurance Cost Containment rules, LAC 40:I.Chapter 11.

The changes to these rule will clarify the requirements to participate in the occupational safety and health program and the procedures that will be used to evaluate an employer's implementation of the program.

This proposed rule is to become effective on October 1, 1994 and may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than October 28, 1994, at 4:15 p.m., to Alvin J. Walsh, Director, Office of Workers' Compensation, Box 94040, Baton Rouge, LA. 70804-9040 or 1001 North 23rd Street, Baton Rouge, LA. 70802 or to FAX number (504) 342-5665.

Alvin J. Walsh
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Insurance Cost Containment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules clarify the rules by setting forth the procedures to be used in evaluating employers' implementation of the occupational safety and health program. No additional cost will be incurred to implement these rules, however, the office expends approximately \$205,000 per year performing on-site inspections.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be minimal effect on revenue collection in the form of a \$.25 per page fee for copies of the revised rules for a total estimated amount of \$375. There should be no effect on revenues of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no increased costs or economic benefits resulting from the adoption of these rules as the rules only clarify who is eligible to participate in the program under current federal OSHA regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Alvin J. Walsh
Assistant Secretary
9409#046

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Plan Document—Durable Medical Equipment

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, notice is hereby given that the Board of Trustees intends to adopt the following amendment to the plan document relative to durable medical equipment in order to avoid disruption or curtailment of services to state employees and their dependents who are covered by the State Employees Group Benefits Program.

The purpose, intent, and effect of these amendments to the plan document is to expand the scope of durable medical equipment to include electric wheelchairs, while establishing a procedure for capping the costs and substantiating the medical necessity for such equipment.

The full text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may present their views in writing to James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m., Monday, October 24, 1994.

James R. Plaisance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Durable Medical Equipment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will remove the limitation on coverage for motorized wheel chairs and limit reimbursement for durable medical equipment to a maximum reimbursement level. According to the program's consulting actuary, the Segal Company, the fiscal impact of this change is negligible.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state or local governmental units will not be affected by this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Implementation of the rule change will have no cost or economic benefit to the plan members of the State Employees Group Benefits Program as a group, although individual members may have reimbursements raised or lowered based on the individual claim.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment will not be affected.

James R. Plaisance
Executive Director
9409#027

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Mullet Daily Take Seasons (LAC 76:VII.342)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule, LAC 76:VII.343, changing the opening date for the "roe" mullet season from October 15 to the third Monday in October. Authority for adoption of this rule is included in R.S. 56:6(25)(a), 56:326.3 and 56:333.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§342. Mullet Daily Take

A. Seasons: A framework of seasons is hereby set for the harvest of mullet. A "pre-roe" season is set to run from 12:01 a.m., September 15 until 12 p.m. (midnight) of the Sunday preceding the third Monday in October of each year. A "roe"

season is set to run from 12:01 a.m. of the third Monday in October until 12 p.m. (midnight) January 14 of the following year. A "non-roe" season is set to run from 12:01 a.m. January 15 until 12 p.m. (midnight) September 14 of each year.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:325.1, 56:326.3 and 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992), amended LR 20:

Interested persons may submit written comments relative to the proposed rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to October 20, 1994.

John F. "Jeff" Schneider
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Mullet Daily Take Seasons

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no state or local governmental implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenues to any state or local governmental units from the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Rule is intended to provide additional competitiveness to Louisiana processors, by providing a consistent opening day to the mullet "roe" season. By processing product on a more efficient schedule, additional benefits to processors and fishermen may accrue, due to better quality of processed product. The dimensions of this benefit are not estimable at this time, due to lack of data.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be little or no effect on competition or employment. Proposed rule would require that some persons take leave from other jobs in order to participate on opening day. However, the proposed change would allow these persons to prepare their gear over the weekend, and to participate in the opening day with the use of relatively little leave time from any alternative occupation. Persons whose job requires weekend work would no longer require leave to participate in opening day. Any redistribution of benefits due to this effect are expected to be minimal.

Fredrick J. Prejean, Sr.
Undersecretary
9409#020

David W. Hood
Senior Fiscal Analyst

POTPOURRI

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Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Plant Pest Quarantine Addition

Title 7
AGRICULTURE AND ANIMALS
Part XV.

Chapter 95. Crop Pests and Diseases

In accordance with LAC 7:XV.9509, we are hereby publishing a "Supplement to the 1994 Quarantine Listing for Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum.)."

A. In the state of Louisiana

1. The entire parish of Grant.

Bob Odom
Commissioner

9409#009

POTPOURRI

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission

Retail Floristry Examination

The next retail floristry examination will be given October 24-28, 1994 at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending application and fee is September 22, 1994 at 4:30 p.m. No applications will be accepted after September 22, 1994.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118.

Any individual requesting special accommodations due to a disability should notify our office prior to September 22, 1994. If you have any questions, please call our office at (504) 925-7772.

Bob Odom
Commissioner

9409#010

POTPOURRI

Department of Environmental Quality
Office of Air Quality and Radiation Protection

1990 Base Year Emissions Inventory
Request for Public Comment

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Air Quality and Radiation Protection will submit a change in the 1990 Base Year Emissions Inventory. A copy of the changes may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m. at either:

DEQ HEADQUARTERS
Air Quality Regulatory Division
7290 Bluebonnet, 2nd Floor
Baton Rouge, LA; or
DEQ CAPITAL REGIONAL OFFICE
11720 Airline Highway
Baton Rouge, LA

The 1990 Base Year Emissions Inventory changes are also distributed to 25 depository libraries throughout the state, which includes the State Library of Louisiana, the Louisiana Section, 760 North Third Street, Baton Rouge, LA. Please contact the State Library for viewing times and names and locations of other libraries.

A public hearing will be held at 1:30 p.m. on Friday, October 28, 1994, in Room 326, Maynard Ketcham Building, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Annette Sharp at the telephone number or address listed below.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP. Such comments should be submitted no later than 4:30 p.m., Friday, November 4, 1994, to Alice Fredlund, Air Quality Division, Box 82135, Baton Rouge, LA 70884-2135, (504) 765-0219.

Gus Von Bodungen
Assistant Secretary

9409#036

POTPOURRI

Department of Environmental Quality
Office of Air Quality and Radiation Protection

Volatile Organic Compound (VOC) Emissions

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Air Quality and Radiation Protection will submit a change in the "State Implementation Plan (SIP)." Revisions to the Reasonable Further Progress Plan (RFP) are being made to demonstrate the state's ability to reduce Volatile Organic

Compound (VOC) emissions by 15 percent in 1996. The RFP is mandated under the requirements of the 1990 Clean Air Act Amendments. Any area in the Nation designated as serious or above ozone nonattainment must submit a 15 percent VOC reduction RFP. A copy of the SIP changes may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m. at either:

DEQ HEADQUARTERS
Air Quality Regulatory Division
7290 Bluebonnet, 2nd Floor
Baton Rouge, LA; or
DEQ CAPITAL REGIONAL OFFICE
11720 Airline Highway
Baton Rouge, LA

The SIP is also distributed to 25 depository libraries throughout the state, which includes the State Library of Louisiana, the Louisiana Section, 760 North Third Street, Baton Rouge, LA. Please contact the State Library for viewing times and names and locations of other libraries.

A public hearing will be held at 1:30 p.m. on Friday, October 28, 1994, in Room 326, Maynard Ketcham Building, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Annette Sharp at the telephone number or address listed below.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP. Such comments should be submitted no later than 4:30 p.m., Friday, November 4, 1994, to Annette Sharp, Air Quality Division, Box 82135, Baton Rouge, LA 70884-2135, (504) 765-0219.

Gus Von Bodungen
Assistant Secretary

9409#037

POTPOURRI

Office of the Governor
Office of Coastal Activities

Public Meetings

The State Wetlands Conservation and Restoration Authority will hold public meetings for the purpose of accepting comments and recommendations concerning the development of the 1994-1995 Coastal Wetlands Conservation and Restoration Plan. These meetings will be held in conjunction with the public meetings on the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) fourth priority list of candidate projects.

The schedule and location for the meetings are as follows:

September 26, 1994, Houma, 7:30 p.m.

Municipal Auditorium
800 Verret Street

This meeting will cover the candidate priority projects in the Barataria, Terrebonne and Atchafalaya Basins.

September 28, 1994, Cameron, 7:30 p.m.

Cameron Parish Police Jury Annex
Building
Highway 27 and Smith Circle
(Court House Square)
Cameron, LA

This meeting will cover the candidate priority projects in the Teche/Vermilion, Mermentau and Calcasieu/Sabine Basins.

October 6, 1994, New Orleans, 7:30 p.m.

USACE New Orleans District Assembly
Room
Foot of Prytania

This meeting will cover the candidate priority projects in the Pontchartrain, Mississippi River and Breton Sound Basins.

Copies of the fourth priority list of candidate projects will be available for review at the parish library. For additional information, call Dianne Cassel at (504) 922-3244.

Len Bahr
Executive Assistant

9409#077

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Claims

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 41 claims in the amount of \$95,942.09 were received in the month of July 1994. No claims were paid and one claim was denied.

Loran coordinates of reported underwater obstructions are:

27804	46858	Terrebonne
28030	46838	Terrebonne
28592	46898	Jefferson
26754	47010	Cameron
29111	46835	Plaquemines
29354	89140	St. Bernard
27918	46886	Terrebonne
27924	46855	Terrebonne
27922	46852	Terrebonne
28251	46821	Lafourche

A list of claimants, and amounts paid, may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Jack McClanahan
Secretary

9409#079

POTPOURRI

**Department of Transportation and Development
Office of the Secretary
Public Transportation Section**

Railroad Speed Restrictions

Pursuant to Title 70, Part IX, Chapter 7 of the Louisiana Administrative Code, "Speed Restrictions for Railroad Traffic", a public hearing was conducted on Wednesday, August 3, 1994, in the auditorium of the Department of Transportation and Development Headquarters, 1201 Capitol Access Road, Baton Rouge, Louisiana.

The purpose of the hearing was to ascertain facts surrounding the petition of the Town of Pollock to impose speed restrictions on the Union Pacific Railroad on the section of trackage within the city limits of Pollock.

After a thorough review of the testimony and evidence submitted, the duly appointed committee found no evidence to justify the granting of relief to the Town of Pollock.

The contact person concerning this matter is Eddie L. Morris, Rail Program Manager, DOTD, Box 94245, Baton Rouge, LA 70804-9245.

Eddie L. Morris
Rail Program Manager

9409#078

1994

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