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EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 94-36

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishes (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Parish of Plaquemines has requested an allocation from the 1994 ceiling to be used in connection with the financing of the acquisition or purchase of certain sewage facilities and solid waste disposal facilities (the "project") at the Alliance Refinery of BP Exploration & Oil Inc. located in Plaquemines Parish, at Belle Chasse, Louisiana; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, the Parish of Plaquemines; and

WHEREAS: it is the intent of the governor of the State of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supersedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1994 ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$30,000,000	Parish of Plaquemines	BP Exploration & Oil Inc.

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the State of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 28, 1994, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1994.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order No. EWE 92-47, supersedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall

include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

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 21st day of October, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9411#005

EXECUTIVE ORDER EWE 94-37

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishes (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Industrial District No. 3 of the Parish of West Baton Rouge has requested an allocation from the 1994 ceiling to be used in connection with the financing of the acquisition or purchase of certain water pollution control facilities (the "project") at the chemical plant complex of the Dow Chemical Company located in and adjoining West Baton Rouge Parish, Louisiana; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the state of Louisiana, the Parish of West Baton Rouge; and

WHEREAS: it is the intent of the governor of the state of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supersedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the state of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1994 ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$20,000,000	Industrial District No.3 of the Parish of West Baton Rouge	The Dow Chemical Co.

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a

Portion of the State of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 28, 1994, provided that such bonds are delivered to the initial purchasers thereof on or about December 28, 1994.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order No. EWE 92-47, supersedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

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 1st day of November, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9411#031

EXECUTIVE ORDER EWE 94-38

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishes (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Parish of DeSoto, State of Louisiana has requested an allocation from the 1994 ceiling to be used in connection with the financing of the acquisition, construction and installation of certain solid waste disposal and sewage facilities in Mansfield, Louisiana (the "project") for International Paper Company, a New York corporation; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, and the Parish of DeSoto; and

WHEREAS: it is the intent of the governor of the State of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47,

supersedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1994 ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$25,000,000	Parish of DeSoto State of Louisiana	International Paper Company

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the State of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 28, 1994, provided that such bonds are delivered to the initial purchasers thereof on or about December 28, 1994.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order No. EWE 92-47, supersedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

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 1st day of November, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9411#032

EXECUTIVE ORDER EWE 94-39

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishes (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Industrial Development Board of the Parish of Calcasieu, Inc., has requested an allocation from the 1994 ceiling to be used in connection with the financing of the acquisition, construction and installation of water pollution control facilities in Calcasieu Parish, Louisiana (the "project") for CITGO Petroleum Corporation, a Delaware corporation, and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana and the Parish of Calcasieu; and

WHEREAS: it is the intent of the governor of the State of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1994 ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$20,000,000	Industrial Development Board of the Parish of Calcasieu, Inc.	CITGO Petroleum Corporation

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the State of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 28, 1994, provided that such bonds are delivered to the initial purchasers thereof on or about December 28, 1994.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order No. EWE 92-47, supercedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

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 1st day of November, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9411#033

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishes (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Industrial Development Board of the City of New Orleans, Louisiana, Inc., has requested an allocation from the 1994 ceiling to be used in connection with the financing of the acquisition, construction, and installation of a solid waste disposal facility for the handling and processing of synthetic gypsum (the "project") in New Orleans, Louisiana for the United States Gypsum Company, a Delaware corporation; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana and the Parish of Orleans; and

WHEREAS: it is the intent of the governor of the State of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1994 ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$3,600,000	Industrial Development Board of the City of New Orleans, Louisiana, Inc.	United States Gypsum Company

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the State of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 28, 1994, provided that such bonds are delivered to the initial purchasers thereof on or about December 28, 1994.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order No. EWE 92-47, supercedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

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 1st day of November, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9411#034

EXECUTIVE ORDER EWE 94-41

WHEREAS: The Constitution of the state of Louisiana, Article VII, Section 10 and R.S. 39:75 provide that appropriations shall not exceed the official forecast of the Revenue Estimating Conference and;

WHEREAS: pursuant to the provisions of R.S. 39:75(B), the Joint Legislative Committee on the Budget has notified the governor that a projected deficit in the state general fund exists for Fiscal Year 1994-95 and;

WHEREAS: to avoid incurring a state general fund deficit in accordance with these provisions, budgetary adjustments for the current fiscal year are necessary;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, find it necessary to order and direct the following to achieve a balanced budget.

SECTION 1: Appropriations for expenditures shall be adjusted for the following budget unit in the amount shown below:

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

Office of Engineering

Budget Unit: 07-8276

District Offices Program

Reduction in premiums to be paid to the Office of Risk Management for Road Hazard and Miscellaneous Tort Liabilities \$5,640,000

SECTION 2: The above action, together with a voluntary reduction by the Louisiana Judiciary of \$5,000,000 appropriated in Act 38 of 1994 for the operations of the Louisiana Indigent Defender Board, will result in a level of expenditure which does not exceed the official forecast of the Revenue Estimating Conference.

SECTION 3: This order shall become effective upon signature.

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 3rd day of November, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9411#035

EMERGENCY RULES

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board

Testing Nonvaccinated Heifer Calves for Brucellosis
(LAC 7:XXI.11735)

In accordance with R.S. 49:953(B), the Administrative Procedure Act, the Department of Agriculture and Forestry Livestock Sanitary Board and Commissioner Bob Odom, under the authority granted under R.S. 3:2095, hereby declares an emergency situation and adopts the following emergency rule due to the continued incidence of brucellosis infection in cattle herds, the necessity to move as quickly as possible to complete the eradication program and the advantage of increased surveillance in moving the program forward to eventual completion.

Brucellosis is an infectious disease of cattle which has caused millions of dollars of lost productivity. An eradication program which is nearing completion needs additional surveillance techniques and procedures to find the last vestiges of the infection in Louisiana, and complete eradication as quickly as possible.

This regulation will provide increased surveillance of cattle herds which are normally not tested or for which surveillance is lacking.

The effective date of this emergency rule is November 20, 1994, and it shall remain in effect for 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Disease of Animals

Chapter 117. Livestock Sanitary Board

Subchapter B. Cattle

§11735. Livestock Auction Market Requirements

All cattle which are sold or offered for sale in livestock auction markets must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements.

A. Brucellosis

* * *

8.a. All nonbrucellosis vaccinated heifer calves, between four and 12 months of age offered for sale at a Louisiana livestock auction market shall have a blood sample drawn for brucellosis testing. This blood sample shall be drawn prior to the heifer being sold and shall be submitted to the state/federal brucellosis laboratory for testing.

b. A brucellosis testing fee of \$1 for each heifer calf tested shall be collected by the Louisiana livestock auction markets from the sale proceeds and remitted to the Louisiana Department of Agriculture and Forestry. The fee shall be remitted monthly, no later than the tenth day of the month

following the month in which the fee is collected by the Louisiana livestock auction markets.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1995), amended LR 11:615 (June 1955), LR 14:223 (April 1988), LR 14:697 (October 1988), LR 15:810 (October 1989), LR 20:

Bob Odom
Commissioner

9411#016

DECLARATION OF EMERGENCY

Economic Development and Gaming Corporation

Casino Licensing and Suitability
(LAC 42:IX.Chapters 21—33)

The Board of Directors for the Louisiana Economic Development and Gaming Corporation had its October 4, 1994 board meeting and adopted Chapters 21, 23, 25, 27 and 33 as interim emergency rules to be effective for 120 days or until promulgation of permanent rules or these rules are otherwise replaced, whichever occurs first.

The corporation is entitled to adopt its initial rules on an emergency basis as provided by R.S. 4:620(D) which states:

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

The corporation declares these rules to be a portion of their initial rules as defined in Section 620(D) and will, over the next several weeks, publish additional rules which are intended to be the initial rules for regulation of the landbased casino.

The corporation further declares that if these rules are not found to be the initial rules of the corporation, that an emergency still exists in that it is imperative for the welfare and well being of the citizens of the state of Louisiana, that landbased casino gaming operations, pursuant to R.S. 4:601 et seq., commence before April, 1995. The financial incentives and fees to be collected by this corporation will greatly enhance the economic outlook for the state of Louisiana.

The existing emergency rule shall expire 120 days from October 4, 1994 or such earlier time as permanent rules are promulgated or these rules are otherwise replaced.

Title 42

LOUISIANA GAMING

Part IX. Casino Gambling

Chapter 21. General Provisions

§2101. Policy

It is the declared policy of the Louisiana Economic

Development and Gaming Corporation that casino gaming in Louisiana be strictly regulated and controlled through administrative rules and the casino operating contract to protect the public morals, good order and welfare of the inhabitants of the state of Louisiana and to develop the economy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2103. Regulations

A. Structure. Nothing contained in these regulations shall be so construed as to conflict with any provision of the Louisiana Economic Development and Gaming Corporation Act or other applicable state or federal law.

B. Severability. If any provision of these regulations shall be held invalid, it shall not be construed to invalidate any other provisions of these regulations or the provisions of the Louisiana Economic Development and Gaming Corporation Act.

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

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2105. Definitions, Words and Terms; Captions; Gender References

The provisions of the Louisiana Economic Development and Gaming Corporation Act relating to definition, words and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these regulations, except as otherwise specifically declared or clearly apparent from the context of the regulations. Any word or term not defined in these regulations shall have the meaning ascribed to it in the Louisiana Economic Development and Gaming Corporation Act. Should any word or term not be defined in these regulations or the Louisiana Economic Development and Gaming Corporation Act, those words and terms shall be construed in accordance with their plain and ordinary meaning. The captions appearing at the beginning of each regulatory Section are for convenience and organization and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or use of neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice versa, in any place or places in the regulations where the context requires such substitution. The following terms shall have the meaning ascribed to each:

Acquire Control—any act or conduct by a person whereby he obtains control, whether accomplished through the ownership of equity or voting securities, ownership of rights to acquire equity or voting securities, by management or consultant agreements or other contracts, by proxy or power of attorney, by statutory mergers, by consummation of a tender offer, by acquisition of assets or otherwise.

Administrative Approval—the authority conferred upon the president by any regulation or by a condition imposed on a license, permit, approval or contract, in his individual discretion, to grant or deny a request for approval of a proposed action or transaction.

Administrative Decision—the final action, decision, order

or disposition by the president or board directed toward a request for administrative approval.

Affiliate—a person that directly, or indirectly, through one or more intermediaries, effectively, controls, or is controlled by, or is under common control with, a specified person.

Applicant Records—those records which contain information and data pertaining to an applicant's criminal record, antecedents and background, and the applicant's financial records, furnished or obtained by the corporation from any source incidental to the investigation, for licensure, finding of suitability, permit, registration, the continuing obligation to maintain suitability or other affirmative approval.

Approvals—those actions of casino operator licensees or permittees or transactions directly or indirectly involving licensees or permittees which require approval by the corporation through the president or the board but which do not in themselves, constitute licensing or a finding of suitability of any person involved, but the licensing or finding of suitability of the person's involved may, unless the act, these regulations or the corporation dictate otherwise, constitute approval by the corporation of the transaction in question.

Associated Equipment—any device, component, machine or contrivance utilized in connection, either directly or indirectly, with gaming, which does not affect the outcome of the game.

Background Investigation—all efforts whether prior to or subsequent to application, designed to discover information about an applicant, licensee or permittee, and includes without time limitation, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process. Examples of background investigation include but are not limited to: measures taken in connection with exploring information on applicants; procedures undertaken with respect to investigatory hearings, except for matters specifically disclosed in any hearing open to the public and orders, responses, and other documents relating thereto.

Beneficial Owner—a person possessing a beneficial ownership interest.

Beneficial Ownership—an interest held by a person directly that entitles such person to control, directly such organization, or; which constitutes more than five percent of the shares of voting stock or other voting securities of such organization, or; that entitles such person to more than five percent of the earnings and profits or distributions of such organization, or; that entitles such person to five percent or more of the assets of such organization upon the liquidation or dissolution of such organization.

Casino—the casino premises, the furniture, fixtures and equipment (FF&E), the operating equipment and operating supplies. Whenever the term casino is not preceded by either the word temporary or the word permanent, the term shall mean and include both the temporary and permanent casino.

Casino Manager—a person with whom the casino operator contracts to provide all or substantially all of the services necessary for the day-to-day management and operation of the establishment or casino pursuant to the casino operating contract and these regulations whom or which has

been found suitable by the corporation.

Casino Operator—any person or entity who enters into a contract with the corporation requiring that person or entity to conduct casino gaming operations according to the provisions of R.S. 4:601 et seq. Casino operator may also mean the former casino operator and may include any affiliate of the casino operator.

Casino Operator Affiliate—any person which directly owns any interest in the casino operator. In the event that the casino operator shall be in the form of a general partnership, then the casino operator affiliate term shall include all partners individually.

Heating Device—any tangible object, item, contrivance, part or device used, or attempted to be used, to alter the randomness of any game or any gaming device in the *Establishment*, or to play any game or gaming device without placing the required wager in order to for himself or another, win or attempt to win money or property, or a combination thereof, or reduce or attempt to reduce or increase either a losing or winning wager including any device used by a Person to gain an unfair advantage.

Confidential Record—any paper, document or other report or data reduced to a record which is not open to the public or which is related to security.

Confidential Source—a provider of information which is not a matter of general public knowledge or of public record as well as an information provider, the revelation of whose identity would tend to compromise the flow of information from that particular provider or his class of providers. Examples of confidential sources include but are not limited to: governmental agencies which provide tax records or related information; law enforcement or criminal justice agencies, including cooperative federally funded data bases, which provide criminal history and related data under information sharing or providing agreements or arrangements; private persons or entities which provide information subject to the condition that the information or their identities be kept confidential; informants, whether volunteering information or responding to investigatory measures; and any other provider or originator of information which might be deemed to be subject to a recognized disclosure (unless the privilege has been waived), or the public disclosure of which might tend to endanger or compromise the provider of information, or impede the future furnishing of similar information.

Control (including *Controlling*, *Controlled by*, and *Under Common Control*)—the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through ownership or voting securities, by contract or otherwise conducted.

Controlled Affiliate (of a specified person)—another person which, directly or indirectly, is controlled by the person specified.

Controlling Affiliate (of a specified person)—another person which, directly or indirectly, controls the person specified.

Corporate Security—refers to any matter which relates to or has an impact on: the physical safety of personnel; the effective investigatory or regulatory functions of the corporation; the operational plans policies and techniques of

the corporation; the types and uses of equipment utilized by the corporation; the design, components, layout, structure, and similar features, of facilities used, occupied, or overseen by the corporation; or any other aspect of the function of the corporation, the public disclosure of which might tend to compromise safety or the effective regulation of gaming by the corporation. Examples of corporate security include but are not limited to: the types and location of records maintained by the corporation, security plans for the casino operation, the internal controls of casino operator, the corporate building and offices; staffing schedules and arrangements; and lists or descriptions of equipment.

Disciplinary Action—any action undertaken by the president which includes the suspension, revocation or refusal to renew any contract, other than the casino operating contract, entered into or any license issued in accordance with the provisions of the act or these regulations.

Distributor's License—a license issued by the corporation to any person who buys, sells, leases, services or repairs slot machines or other gaming devices or supplies.

Establishment—the building or facility described in R.S. 4:641 and defined in R.S. 4:605. This shall include any temporary casino pursuant to R.S. 4:641(J).

Equity Owner—any person with an ownership interest in a casino operator affiliate.

Financial Records—those records which, in the opinion of the board or president, relate to the finances, earnings or revenue of an applicant, licensee, permittee or other person to whom approval or finding of suitability has been requested or granted.

Financial Statements—refers to, and encompasses both summaries of financial matters of any sort and any source documents or records from which summaries are or may be derived. Examples of financial statements include but are not limited to: balance sheet, profit and loss statements; mortgages; debt instruments; ledgers; journals; invoices and any other document bearing on the financial status of an entity whether historical or current.

Finder's Fees—any compensation in money in excess of the sum of \$10,000, or real or personal property with a real value in excess of the sum of \$10,000 which is paid or transferred to any person in consideration for the arranging or negotiation of an extension of credit to the casino operator, a casino operator affiliate or an applicant for licensing, registration, approval or finding of suitability if the proceeds of such extension of credit is intended to be used for any of the following purposes: the acquisition of an interest in the establishment, casino operator or casino operator affiliate; to finance the gaming operations of the casino operator. The term shall not include: compensation to the person who extends the credit; normal and customary payments to employees of the person to whom the credit is extended if the arranging or negotiation of credit is part of their normal duties; normal and customary payments for bona fide professional services rendered by lawyers, accountants, engineers and appraisers; underwriters discounts paid to a member of the National Association of Securities Dealers, Inc.; fees paid to banking institutions in connection with procuring credit.

Finding of Suitability—any action required or allowed by the president, board, act or these regulations that require certain persons, directly or indirectly involved with the casino operator, licensees or permittees, to be found suitable to hold a gaming license so long as such involvement continues. A finding of suitability relates only to the specified involvement for which it is made. If the nature of the involvement changes from that which the applicant is found suitable, he may be required to submit himself to a determination by the corporation of his suitability in the new capacity.

Funds—money or any other thing of value.

Gaming Device—any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used directly or indirectly in connection with gaming or any game which affects the result of a wager by determining win or loss. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any game, or which determines the outcome of a game. The term does not include associated equipment or a system or device which affects a game solely by stopping its operation so that the outcome remains undetermined.

Gaming Employee—any person connected with the operation of the official gaming establishment including: pit bosses, floormen, boxmen, dealers or croupiers, machine mechanics, designated gaming area security employees, count room personnel, cage personnel, slot machine and slot booth personnel, credit and collection personnel, casino service personnel, and supervisory personnel empowered to make discretionary decisions that regulate gaming activities, including shift bosses, credit executives, casino cashier supervisors, gaming managers and assistant managers, and any individual, other than nongaming equipment maintenance personnel, cleaning personnel, waiters, waitresses, and secretaries, whose employment duties require or authorize access to designated gaming areas.

Gaming Employee License—the license granted to a gaming employee employed in the operation or supervision of a gaming activity at the official gaming establishment.

Gaming Jurisdiction—any other jurisdiction wherein gaming activity is allowed pursuant to state or federal legislation and a tribal state compact and any foreign jurisdiction allowing gaming activities.

Gaming License—any license issued by the corporation to any person or entity other than a nongaming vendor registration.

Gaming Supplies—all materials and supplies other than gaming devices used or expended in gaming operations or activities.

Hearing Officer—one or more independent attorneys at law who may administer oaths and receive evidence and testimony under oath, and who may make recommendations or render decisions affecting contracts, and permits issued pursuant to the provisions of the act and these regulations.

Holding Company or Intermediary Company—a company that has the ability to elect a majority of its directors or otherwise direct the management and policies of the casino operator, casino operator affiliate, or the ability to elect members to the executive committee of the casino

operator. An intermediary or holding company of the casino manager means any company that has the ability to elect a majority of its directors or otherwise direct the management and policies of the company.

Inspection—periodic surveillance and observation by the corporation of operations conducted by the casino gaming operator, licensee or permittee, which surveillance and observation may or may not be known to the casino gaming operator, licensee, or permittee.

Interested Person—any applicant, licensee, registrant, permittee, person found suitable, or person, group of individuals or entities affected by the application of the act or these regulations promulgated thereunder. The term shall also mean a governmental agency or political subdivision of the state.

Junket Representative—any person who contracts with the casino operator or its Affiliate to provide services inside or outside the state of Louisiana consisting of arranging transportation for guest of the licensed establishment. The term *junket representative* does not include:

- a. the casino operator;
- b. a bonded collection agency licensed by local government authorities in the jurisdiction where the agency has its principal place of business;
- c. a licensed attorney;
- d. a supplier of transportation;
- e. a travel agency whose compensation is based solely upon the price of transportation arranged for by the agency;
- f. an employee of the casino operator or an affiliate; or
- g. a person who does not receive cash for his services.

Manufacturer's License—a license issued to any person who manufactures or assembles programs or slot machines or other gaming devices or supplies for sale or use in the state of Louisiana.

Own (Hold or Have)—having an interest in a corporation, partnership, holding company, affiliate, or other form of business entity, or a security of a publicly traded corporation if such person or any associate of such person has a record of beneficial ownership therein.

Permanent Gaming Employee License—the license issued to the applicant after the president has had the ability to review the application and has not objected to or denied the issuance of that license.

Petitioner—an interested person who has filed a petition of preliminary interpretation in accordance with these regulations.

Preliminary Interpretation—a ruling on the meaning or application of the act or these regulations excluding the granting of approvals, findings of suitability, or the granting of a casino operating contract.

Preferred Guest—any person, 21 years of age or older, who received complimentary transportation or services, or other consideration with a retail price over \$10,000 in any seven-day period from the casino operator as an inducement to gamble.

Premises—the land underlying a casino together with all buildings, improvements and personal property located thereon.

President—the president of the corporation.

Public Offering—a sale of securities that is subject to the registration requirements of Section 5 of the Federal Securities Act, or that is exempt from such requirements solely by reason of an exemption contained in Section 3(a)(11) or 3(c) of said act or Regulation A adopted pursuant to Section 3(b) of said act.

Purchase Rights—a security or contractual right to securities issued or issuable on the exercise of options, warrants or other beneficial interest in securities obtained for value upon issuance of securities, or on conversion of other securities.

Records—accounts, correspondence, memoranda, tapes, disks, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

Regulations—regulations adopted by the corporation pursuant to R.S. 49:950 et seq. and as authorized by 4:601 et seq.

Sale and Sell—includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security whether or not for value. *Sale or Sell* includes any exchange of securities and any material change in the rights, preferences, privileges or restrictions of or on outstanding securities.

Secondary Representative—any person other than clerical personnel and ticket takers not otherwise exempted by the definition of junket representative who receive any form of compensation from a registered junket representative for assisting a registered junket representative.

Security—any stock; membership in an incorporated association; bond; debenture; or other evidence of indebtedness, investment contract, voting trust certificate, certificate of deposit for a security; or, in general, any interest or instrument commonly known as a security; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing regardless of whether evidenced in writing.

Security Techniques, Procedures or Practices (of an applicant licensee or permittee)—includes and refers to any matter which relates to or has an impact on: the physical safety of an applicant, licensee or permittee; the integrity of the operational methods and internal control systems; the design and description of all equipment, including its accounting, gaming and criminal detection and alarm equipment; the design, components, layout, structure, and similar features of facilities used, occupied, overseen by it; or any other aspect of its operations, the public disclosure of which might tend to compromise personal safety or the integrity of gaming. Examples of security techniques, procedures or practices include but are not limited to: lists of employees or employment positions and functions; security for the gaming establishment, including all buildings and offices; staffing schedules and arrangements; and list or descriptions of equipment.

Statements on Standards for Accounting Review Services—the standards and procedures published by the American Institute of Certified Public Accountants.

Subsidiary—includes, without limitation, any person,

other than an individual, which is a controlled affiliate of another person, other than an individual.

Temporary License—the license issued to an applicant which may be effective for a term of six months or until a permanent license is issued whichever occurs first.

Trade Secrets—includes any matter the disclosure of which might tend to weaken a competitive advantage, whether concerning a unique, rare or common practice, discovery, or anything whatsoever. Examples of trade secrets include but are not limited to: operational methods; design of equipment; routing memoranda; payroll schedules; bookkeeping and accounting procedures; internal money control systems; equipment and component sources, patron lists; proprietary information; and bid formulations.

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

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2107. Specific Investigative Powers

In conducting investigations, the corporation and its authorized agents and authorized employees shall be empowered to:

1. inspect and examine all premises wherein gaming activities are conducted, proposed to be conducted or where gaming devices are maintained or manufactured, sold, distributed, or repaired and where all papers, books, records, documents, information and electronically stored media are maintained by an applicant, licensee, permittee, casino operator or other person found suitable;

2. summarily seize and remove gaming equipment and devices and impound any equipment and devices for the purposes of examination and inspection;

3. have access to and photocopy all papers, books, records, documents and information of an applicant, licensee, casino operator, permittee or other person found suitable pertaining to the application, gaming operation, or transaction for which corporation approval is required;

4. issue subpoenas;

5. conduct investigative interviews, depositions and hearings; and

6. issue written interrogatories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2109. Subpoenas

A. The president and the board shall each have full power and authority to issue subpoenas to compel the attendance of witnesses and production of documents for any hearing and any investigative interview, deposition or hearing at any place in the state.

B. The president and the board shall have power and authority to administer oaths and require testimony under oath.

C. Subpoenas issued by the president or the board shall be served in a manner consistent with service of process and notices in civil matters.

D. A witness fee of \$25 shall be submitted with the subpoena in order to pay transportation and related expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631(D).

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2111. Interrogatories

A. All interrogatories propounded by the corporation shall be made through the president or his designee in writing and served in a manner consistent with the service of process and notices in civil actions.

B. Interrogatories shall be answered within 15 days of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631(C).

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2113. Contempt

For failure or refusal to comply with any subpoena or order issued by the president or the board and duly served, the president or the board may cite the subpoenaed party for contempt and may impose a civil penalty as provided by the laws of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631(D).

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

Chapter 23. Applications, Licensing, Permitting and Suitability

Subchapter A. Filing of Applications

§2301. General Provisions

All persons required to be licensed, permitted, approved or otherwise found suitable and all other persons the corporation deems necessary to call forward for licensing for the protection of the citizens of this state shall be required to comply with this Chapter and all other applicable provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, and 630.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2303. Procedures and Content

A. Forms. Every application, statement, notice or report shall be filed on forms, including but not limited to personal history and financial background forms, furnished or approved by the corporation and shall contain and be accompanied and supplemented by such documents and information as may be specified or required.

B. Content. Applications shall contain all the information prescribed by the corporation and at least the following:

1. an affidavit of full disclosure, signed by the applicant or in the case of a corporation, partnership, joint venture or other business entity, by an authorized representative of the entity;

2. an authorization to release information to the corporation, signed by the applicant;

3. a release of all claims, signed by the applicant;

4. in addition, the corporation may require an applicant to provide such other information and details as it deems necessary to discharge its duties properly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:605.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2305. Amendment

Procedure. An application may be amended in any respect

by leave and approval of the president at any time prior to final action thereon. The president shall have the authority to approve or disapprove any amendment. Any amendment to an application shall have the effect of establishing the date of such amendment as the new filing date of such application with respect to the time requirements for action on such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, and 623.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2307. Duty to Supplement

All amendments to an application or material changes to information contained in an application shall be submitted to the corporation in writing within 10 days of the effective date of the change unless a shorter time is prescribed by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, 630, 631, and 634.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2309. Incorporation by Reference

Any document filed pursuant to the act or these regulations may be incorporated by reference in a subsequent application if it is available in the files of the corporation, to the extent the document is currently accurate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602; 620.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2311. Untrue Statements

It is grounds for denial of an application or disciplinary action in addition to criminal penalties (criminal if violation is knowing and intentional) for any person to make any untrue statement of material fact in any application, notice, statement or report filed with the corporation, or wilfully omit to state in any such application, notice, statement or report any material fact which is required to be stated therein or omit to state a material fact necessary to make the facts stated in view of the circumstances under which they are stated, not misleading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, 630, 631, and 634.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2313. Waiver of Privilege

An applicant may claim any privilege afforded by the Constitution of the United States or the Constitution of the State of Louisiana in refusing to answer any question of the president or board or request for information made by the corporation. However, a claim of privilege with respect to any testimony or evidence pertaining to an application or investigation may constitute sufficient grounds for denial of the application or revocation or suspension of the license or permit held by the person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, 634.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2315. Fees

Except as otherwise provided herein, all fees and costs

incurred in conjunction with the investigation of any application to the corporation shall be paid by the applicant in the manner prescribed in this regulation.

1. All applications shall be accompanied by a nonrefundable application fee (in amount set forth in fee schedule adopted by the corporation).

2. In addition to any nonrefundable application fee, the president shall have the authority to require an applicant to pay such supplementary investigative fees and costs as may be determined reasonable by the president. The president may estimate the supplementary investigative fees and costs and require a deposit to be paid by the applicant in advance as a condition precedent to beginning or continuing an investigation. The president shall provide a reasonable basis for the estimated investigation fees and shall provide an itemized invoice for the actual costs incurred during the investigation. The applicant shall not be entitled to request a board review of the investigative costs.

3. The president will not take final action to approve any application unless all application and investigative fees and costs have been paid in full. The president may deny any application if the applicant has failed or refused to pay all application and investigative fees and costs.

4. After all investigative fees and costs have been paid by the applicant, the corporation shall refund any balance remaining in the investigative account of the applicant.

5. If the president determines it is in the public interest, and upon substantial written justification, the president may waive payment of an investigative fee or cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, 623, 631, 633, and 651.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2317. Expiration

In addition to any specific provisions contained in any other Chapter or as otherwise provided in the Casino Act, any license or permit granted pursuant to the act and/or these rules and regulations expires one year from the date of issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:650.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2319. Renewal Applications

Applications for renewal for a license or permit authorized by the Casino Act, shall be submitted on forms provided by the corporation and which shall contain a sworn statement identifying all material changes from the current application and information submitted to the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:650.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2321. Withdrawal of Application

A. A request for withdrawal of an application may be made at any time prior to final action by filing a written request to withdraw with the president.

B. The president shall render a decision in writing granting or denying the request. A denial may be made with or without prejudice.

C. If a request for withdrawal is granted with prejudice, the

applicant is not eligible to reapply for licensing or approval until after the expiration of one year from the date of the president's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, 633, and 655.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2323. Application after Denial

A person whose license has been objected to or denied is not eligible to reapply for a license for a period of one year after the decision of the president to object to the issuance of the license, or in cases where the objection is reviewed by the board, one year from the date of the board's denial of the license, unless a shorter period is specified in the president's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:650.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

Subchapter B. Findings of Suitability

§2325. Corporate Authority

The corporation shall conduct investigations of each application filed with the corporation prior to any action being taken with respect to the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:633.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2327. Government Officials Holding Licenses

No gaming license, permit, finding of suitability, contract or approval, the granting of which requires an application to be made to the corporation shall be held by nor granted to any person holding public office in, or being employed by, any governmental agency within the state of Louisiana when the duties of such office or agency pertain to the enforcement of the Casino Act or these regulations. The corporation may waive, in accordance with the Casino Act, the prohibition contained in this regulation, if the president makes a written finding that such waiver is not inconsistent with the policies of the State of Louisiana and the act and the functions, duties, or responsibilities of the person otherwise restricted from holding a license, permit, finding of suitability, contract or approval. Such waivers are nontransferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, and 634.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2329. Burden of Proof

Since each applicant is seeking a revocable privilege, the burden of proving and maintaining his qualification is at all times on the applicant. Each applicant shall demonstrate his suitability by clear and convincing evidence. An applicant shall accept any risk of adverse publicity, embarrassment, criticism, or other action, or financial loss which may result or occur from action with respect to an application and expressly waive any claim for damages as a result thereof. The filing of an application or the submission of a bid for the casino operator contract under the Casino Act and these regulations constitutes a request for the board or president to determine the applicant's or the operator's general

suitability, character, integrity, and ability to participate, engage in or be associated with land based gaming in Louisiana, and by filing the application or making the bid, the applicant specifically consents to the making of such a determination by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, and 626.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2331. Suitability Criteria

An application for a license, permit, finding of suitability, approval or contract shall not be granted unless the board, in cases where the board has original jurisdiction, or the president and the board in cases appealed to the board is satisfied that the applicant is:

1. a person of good character, honesty and integrity;
2. a person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest or result in adverse publicity for the state of Louisiana or to the effective regulation and control of gaming, or create, or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;
3. a person who is capable of and likely to conduct the activities for which the applicant is licensed or approved in accordance with the provisions of the Casino Act and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, and 634.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2333. Grounds for Disqualification and Denial

A. A license, finding of suitability or a contract shall not be granted if:

1. the applicant has failed to prove, by clear and convincing evidence, that he is suitable pursuant to the terms of the Casino Act and these regulations;
2. the applicant failed to provide information and documentation to the corporation in order to reveal all material facts relevant to the application, or as requested by the corporation, or supplied information to the corporation that was untrue or misleading as to any material fact pertaining to the qualification criteria or the application;
3. the applicant or any other person required to be qualified under the act has been convicted of, pled guilty to, pled nolo contendere to, received only a suspended sentence or has had any conviction set aside pursuant to Louisiana Code of Criminal Procedure, Section 893, or any similar statute of any foreign jurisdiction for a felony;
4. the applicant, or any person required to be qualified pursuant to the Casino Act as a condition for a contract, has charges pending or is currently being prosecuted in any other jurisdiction for a felony;
5. the applicant is a corporation which is owned by a parent or other corporation or person as defined in R.S. 4:605, and any person owning more than five percent of the common stock of the parent corporation has been convicted of, or pled guilty or nolo contendere to, received only a suspended sentence or has had any conviction set aside

pursuant to Louisiana Code of Criminal Procedure, Section 893, or any similar statute of any foreign jurisdiction, for a felony;

6. if the applicant is a corporation, partnership, association, joint venture, or other entity of which any individual holding five percent or more interest in the profits or loss has been convicted of, or pled guilty or nolo contendere to, received only a suspended sentence or has had any conviction set aside pursuant to Louisiana Code of Criminal Procedure, Section 893, or any similar statute of any foreign jurisdiction, for a felony;

7. the applicant has been found unsuitable or has been denied a gaming license or permit, or has had a gaming license or permit suspended or revoked in another gaming jurisdiction, unless circumstances indicate in the sole discretion of the corporation that such finding is not contrary to the best interest of the state of Louisiana.

B. A license or finding of suitability may be denied if:

1. the applicant knowingly failed to comply with any gaming law or regulation in Louisiana or any other gaming jurisdiction;

2. the applicant committed or attempted to commit any crime of moral turpitude, embezzlement or larceny, or any violation of law that is inimicable to the declared policy of the state of Louisiana regarding gaming;

3. the applicant has been identified in published reports of any federal or state legislative or executive body as being a member or associate of organized crime or being of notorious or unsavory reputation;

4. the applicant has been placed or remains in constructive custody of any state, federal or municipal authority.

C. Nothing contained in this Section shall be deemed to limit the corporation's authority to make suitability determinations on additional or completely different and separate factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, and 635.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2335. Unsuitability-Safe Harbor

If at any time the corporation finds that any person that is required to be and remain suitable has failed to demonstrate suitability, the corporation may, consistent with the Casino Act and the casino operating contract, take any action that the corporation deems necessary to protect the public interest. Provided however, in the event that a person associated with the casino operator, casino operator affiliate, or intermediary or holding company thereof has failed to be found suitable or remain suitable, the corporation shall take no action to declare the casino operator, casino operator affiliate or their respective intermediary or holding companies, as the case may be, unsuitable based upon such finding, if:

1. such companies comply with conditional licensing provisions; and

2. the casino operator, the casino operator affiliates, intermediary or holding companies, as the case may be, takes immediate good faith action (including the prosecution of all legal remedies) and complies with any order of the corporation

to cause such person to dispose of its interest, and, that prior to such disposition, such company, from the date that it receives notice of a finding of unsuitability from the corporation, ensures that the disqualified person:

a. does not receive dividends or interest on the securities of the casino operator, the casino operator affiliates, or their respective intermediary or holding companies;

b. does not exercise, directly or indirectly, including through a trustee or nominee, any right conferred by the securities of the casino operator, casino operator affiliates, or their intermediary or holding companies thereof;

c. does not receive any remuneration from the casino operator, casino operator affiliates, or their intermediary or holding companies;

d. does not receive any economic benefit from the casino operator, casino operator affiliates or their respective intermediary or holding companies;

e. subject to the disposition requirements of this Section, does not continue in an ownership or economic interest in the above mentioned parties or remain as a manager, officer, director, or partner thereof;

3. nothing contained in this Section shall prevent the corporation from taking any action against the casino operator if the casino manager has failed to remain suitable. Moreover, nothing contained in this Section shall prevent corporation from taking regulatory action against the casino operator, casino operator affiliate or their intermediary or holding companies, as the case may be, if:

a. any of such companies engaged in a relationship with the unsuitable person and had actual or constructive knowledge of the wrongdoing causing the corporation regulatory action; or

b. if the casino operator, casino operator affiliate or their intermediary or holding companies, as the case may be, is so tainted by such person that it affects the suitability of such company under the standards of the Casino Act; or

c. the casino operator, casino operator affiliate or their intermediary or holding companies, as the case may be, cannot meet the suitability standards contained in the Casino Act and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:636.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2337. Surrender of a License

A. No license or permit issued pursuant to the act or regulations may be surrendered without the prior approval of the president.

B. If a request is granted without prejudice, the applicant is immediately eligible to apply again for licensing or approval, unless the president has placed a condition on the time in which the applicant shall wait in order to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, 633, and 655.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2339. Denial, Revocation and Restriction

The corporation may deny, revoke, suspend, limit, condition, or restrict any finding of suitability or application therefor upon the same grounds as it may take such action

with respect to licensees and permittees without exclusion of any other grounds. Except as provided in LAC 42:IX.2335, the corporation may further take such action on the grounds that the registrant or person found suitable is associated with, or controls, or is controlled by, or is under common control with, an unsuitable or disqualified person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:633, 634, and 635.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2341. Tax Qualification

No person shall knowingly be or remain employed by the casino operator, nor shall they be licensed or receive a permit, if they are not current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the State of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable procedures, and items of which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule of back taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:634.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2343. Minors

The corporation will not ordinarily grant a license, permit, or finding of suitability to an individual under the age of 21 years. This policy should not affect the licensing or finding of suitability of a trust where the settlor or beneficiary is under the age of 21 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:660.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2345. Appeal by Applicant/Licensee

A. Any applicant aggrieved by a decision and order of the president may appeal the president's decision and order to the board by filing an appeal in the form set forth in LAC 42:IX.2501 et seq. of these regulations, and also include a full description of the application before the president, and a full description of the basis for appeal.

B. The board shall review the decision and order of the president, within 30 days of receiving the appeal.

C. Filing of the appeal shall not stay the execution of the president's decision.

D. After review of the president's decision and order, the board may reverse, sustain or modify the president's order or refer the matter back to the president for further investigation. Final action on the appeal shall occur within 120 days of the date of the appeal. All actions by the board shall occur with a majority vote of the quorum present.

E. The board shall serve the applicant with a written decision on the appeal within as soon as practicable but not later than 60 days after hearing the matter.

F. Appeal of board decisions are made pursuant to the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, 633, and 655.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

Subchapter C. Suitability of Casino Operator

§2347. Board Powers for Suitability of Casino Operator

A. Prior to issuance of a casino operating contract, the casino operator, beneficial owners of the casino operator, equity owners and all other persons the board deems necessary in order to issue the contract, shall demonstrate to the board by clear and convincing evidence their suitability, as that term is defined in the Casino Act and these regulations, to engage in the activities for which they request approval.

B. The board has full and absolute power and authority to deny the application, to limit, condition or restrict any license, contract or finding of suitability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:623, 634, 641.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2349. Exit Interviews

A. If necessary, an exit interview may be scheduled with an applicant.

B. The interview shall be scheduled orally and confirmed in writing prior to the scheduled interview date. The written notice shall include:

1. the time, place and date of the interview;
2. a general list of the issues to be addressed.

C. The interview shall be closed except to the applicant, the applicant's attorney and any witnesses the applicant deems necessary.

D. The corporation's security and audit investigators shall conduct the interviews.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2351. Depositions

A. The corporation may require the applicant to submit to depositions which shall be conducted by the attorney general or his designee. Deposition testimony shall be given under oath before a certified court reporter and incorporated into the record of the matter.

B. Written notice of the time, date and place of the deposition shall be provided to the applicant within three days of the date of the deposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2353. Necessity of a Record of the Proceedings

A. The corporation shall establish and maintain a record of the matter being considered by the board.

B. The record may include, but not be limited to:

1. the person's application;
2. the corporation's independent investigation of the applicant and additional investigative measures which may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:655.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2355. Notice of Board Interview

A. An applicant shall be provided five-day written notice

of the time, date and place of the interview with a general statement as to the issues to be addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:633 and 641.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2357. Hearing Procedure for Owner; Operator Suitability

The following procedures shall apply to any interview conducted before the board pursuant to this Chapter:

1. an applicant shall be given an opportunity to present clear and convincing evidence of his suitability and offer any other comments including a request to withdraw from the process;

2. sworn testimony of the applicant or witness shall be taken and transcribed by a certified court reporter;

3. the applicant shall make a formal request of the board to secure a casino operating contract or a license to participate as an equity owner of the entity applying for the contract;

4. board members may ask any questions of the applicant that the member believes to be relevant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:633 and 641.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2359. Board Deliberations and Decision

After investigation and review of any application required by the board for issuance of the casino operating contract, the board shall issue a written order determining the suitability of the applicant or the propriety of the request to withdraw from the process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:633 and 641.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

Chapter 25. Administrative Proceedings

§2501. President Powers

A. The president of the corporation shall direct and supervise all administrative activities of the corporation in accordance with the act and the rules and regulations adopted by the board. The president shall:

1. supervise and administer the operation of the corporation;

2. issue orders to approve, suspend, revoke or refuse to renew any contract (except for the casino operating contract), license, permit or other approval issued or sought to be issued by the corporation.

B. The president has full and absolute power and authority to deny any application, limit, condition, or restrict any license, permit, contract, (except the casino operating contract), registration, finding of suitability, or approval, or suspend or revoke any license, contract, (except the casino operating contract) permit, registration, finding of suitability or approval or impose a civil penalty upon any person licensed, permitted, registered, found suitable, approved or holding a contract, for any violation of the Casino Act or these regulations promulgated thereunder, or any cause deemed reasonable.

C. All orders, decisions or actions of the president shall be, in writing, stating the reasons for the decision and a copy shall be provided to the interested party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2503. Appeal of President's Order

A. Any person aggrieved by a decision and order of the president issued pursuant to LAC 42:IX.2501 may appeal that decision to the board by filing a written appeal with the board within 10 days of receipt of president's order.

B. Unless otherwise provided in these regulations, the filing of an appeal shall stay the execution of the president's order until the board has completed its final review of the appeal.

C. The appeal shall contain:

1. the name, business address and telephone number of the appellant;

2. a copy of the president's order and summary of evidence;

3. a brief statement listing the statutory or regulatory provisions at issue;

4. a description of the appellant's interpretation or position;

5. a statement of the facts that support the appellant's interpretation or position including any mitigating factors;

6. a list of all witnesses, and a description of evidence that supports the appellant's interpretation or position;

7. a request for hearing before the board;

8. a statement of the reasons which justify review of the president's order; and

9. the signature of the appellant and his legal counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:655.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2505. Hearing Officers

The board may appoint an independent hearing officer to hear appeals of a president's order. The hearing officer shall hear and decide appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:632 et seq.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2507. Hearings

Hearings of appeals of decisions or orders of the president shall be conducted by the board or designated hearing officer in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631 et seq.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2509. Conduct Of Hearing

A. The president or a representative of the president, may present an opening argument in support of the president's order.

B. The person upon whom the order was issued may present an opening argument against the president's order, or in mitigation of the facts presented.

C. The president or his representative may present any witnesses or testimony in support of his order. Any opposing party may cross examine the witnesses. Any opposing party

may make a motion to dismiss at the end of the president's case. The board may hear arguments on the motion, or may grant, deny or reverse the president's order, with or without oral argument.

D. Any other party may present witnesses and evidence in support of his position. The president or his representative may cross examine any witness.

E. Upon conclusion of the presentation of all other witnesses, the president or his representative may present a case in rebuttal.

F. Both the president or his representative and the opposing parties may present closing arguments. Thereupon, the matter will stand submitted to the board or hearing officer. Any member of the board or hearing officer may ask questions of the witnesses and may request further evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631 et seq.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2511. Failure or Refusal To Testify

A. If an applicant licensee, permittee, person found suitable, or person who has had an act or transaction approved fails to testify on his own behalf or asserts a claim of privilege, the president, board or hearing officer may infer therefrom that such testimony would be detrimental to the aforesaid person.

B. If a person controlling, controlled by, or under common control with, or employed by, or an agent of, the applicant licensee, permittee, person found suitable or person who has had an act or transaction approved fails to respond to a subpoena, or asserts a claim of privilege with respect to any question propounded to him, the board may, taking into account all of the circumstances, infer that the testimony which would have been elicited would be detrimental to the aforementioned individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:635 et seq.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2513. Prohibition of Ex-Parte Communications

Unless required for the disposition of procedural or prehearing matters, all communications relating to the matter is prohibited except ex parte matters authorized by this Section.

1. A party or his representative shall not communicate, directly or indirectly, in connection with any issue of fact or law related to an appeal of a president's order, with any member of the board, except upon notice and opportunity to all parties to participate; and

2. A member of the board shall not communicate directly or indirectly, in connection with any issue of fact or law related to an appeal of a president's order, with any party or his representative, except upon notice and opportunity to all parties to participate;

3. This Section shall not preclude:

a. any member of the board from consulting with the attorney general or his designee; or

b. a party or his representative from conferring with the chairman or attorney general or his designee regarding

procedural matters that do not involve issues of fact or law related to the proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631 et seq.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2515. Rehearings

Rehearings shall be directed to the board within the time period provided by law and conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631 et seq.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2517. Board's Decisions on Appeal of President's Order

As soon as practicable, but not later than 60 days of the completion of any hearing held by the board or its designated hearing officer, the board shall render a written decision containing findings of fact and conclusions of law relevant to the appeal of the president's order. The board shall determine whether the president's order was based upon good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:655.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2519. Preliminary Interpretations by the President

A. Purpose. A preliminary interpretation is an extraordinary remedy that will be considered by the president only when the objective of the petitioner cannot reasonably be achieved by other means when the ruling would be significant to the regulation of gaming or the gaming industry.

B. Petitions. Only an interested person may petition the president for a preliminary interpretation.

C. A petition for preliminary interpretation may be filed with the corporation, together with a nonrefundable filing fee in the amount of \$300, unless the petitioner is a governmental agency or political subdivision of the state.

D. Form. The petition for preliminary interpretation shall contain:

1. the name, business address and telephone number of petitioner;

2. a statement of the nature of the interest of the petitioner in obtaining a preliminary interpretation;

3. a statement identifying the specific statute, rule or regulation in question;

4. a clear and concise statement of the interpretation or position of the petitioner relative to the statute, rule or regulation in question;

5. a description of any contrary interpretation, position or practice that gives rise to the petition;

6. a statement of facts that support the interpretation of the petitioner;

7. a statement identifying all persons or groups who the petitioner believes will be affected by the preliminary interpretation; and

8. the signature of the petitioner or his legal counsel.

E. An interested person may not file a petition for preliminary interpretation involving questions or matters that are issues in a contested case in which the interested person is a party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 631.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2521. Issuance of Preliminary Interpretation and Appeal

A. Within 60 days of the filing of the petition, the president shall issue a preliminary interpretation of the statute, rule or regulation addressed in the petition. The president, in his sole and absolute discretion, may consult with the board regarding any petition for preliminary interpretation.

B. Appeal. Any interested person affected by the preliminary interpretation may petition the board for review of the president's interpretation. A request for review shall be submitted to the board within 10 days after the issuance of the president's preliminary interpretation.

C. Content of Appeal. A petition for review of the president's preliminary interpretation shall contain:

1. a statement of the facts relevant to the review of the preliminary interpretation;

2. a statement of the provisions of the Casino Act and these regulations, and any other authority applicable thereto, relevant to the petition;

3. a statement of the arguments that the interested person considers relevant to the review of the preliminary interpretation;

4. a statement of the reasons which justify review of the preliminary interpretation; and

5. any other evidence considered relevant.

D. The petition for review shall be accompanied by a nonrefundable fee of \$300.

E. Any other interested person may file a brief in support of or in opposition to the petition for review. Such brief shall be filed within seven days of receipt of the petition for review.

F. Board Action on Review. Within 45 days of receipt of the petition for review of the preliminary interpretation of the president, the board shall either schedule a hearing or render a decision on the petition. The board may, with or without oral argument dismiss the petition in whole or in part, for any reason. If a hearing is scheduled on the matter, within 30 days of the hearing, the board shall issue its decision on the petition for review and the preliminary interpretation. The board may delegate the review of the president's preliminary interpretation to an independent hearing officer.

G. The provisions of this regulation shall not be construed to limit, condition, or restrict the right of any person to commence and maintain any action authorized by the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631 et seq.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

Chapter 27. Vendor and Junket Representative

Licensing and Registration

Subchapter A. Vendor Licensing and Registration

§2701. Required Licensure

A. All manufacturers, distributors and vendors of gaming devices and gaming supplies or other vendors required to be licensed under the Casino Act, that propose to conduct business with the casino operator, shall apply for and receive a manufacturer's license, distributor's license or other appropriate license, pursuant to LAC 42:IX.2301 et seq. of these regulations.

B. Except as provided in LAC 42:IX.2705.A.1 and A.5, all other vendors that propose to conduct business with the casino operator shall apply for inclusion in the corporation's vendor registration list.

C. Any person who is compensated based upon a percentage, theoretical or actual, of gaming revenue shall be licensed by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:630(B), 630(D); 638.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2703. Suitability

Before a person required to be licensed pursuant to this Chapter may be issued a license, the applicant shall prove his suitability in accordance with LAC 42:IX.2301 et seq. of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:633.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2705. Non-Gaming Vendor Registration

All non-gaming vendors that propose to conduct business with the casino operator shall comply with the following requirements:

1. Under \$10,000. The casino operator shall provide a monthly listing of these vendors which shall contain all information prescribed by the corporation.

2. \$10,000 but under \$50,000. These vendors shall remit an initial application fee of \$100 in order for the vendor to be placed on the corporation's vendor registration list, unless an exception is granted under Subsection A.5 of this Section. The casino operator shall provide a monthly listing of these vendors which shall contain all information prescribed by the corporation. The corporation shall monitor and conduct ongoing reviews of the transactions between the casino operator and such vendor.

3. \$50,000 and over. The vendor shall be required to submit an application for registration on a form provided by the corporation and an application fee of \$250, in order for the vendor to be placed on the corporation's vendor registration list. The casino operator shall be required, after engaging the vendor, to immediately remit a completed Business Information Form (BIF) to the corporation. The corporation may conduct a background investigation into the qualifications of such vendor, and will monitor its transactions with the casino operator.

4. Any vendor under Subsection A.2 of this Section who meets the monetary threshold for Subsection A.3 of this Section, shall remit the remaining balance to the corporation at which time he will receive written notification of inclusion on the vendor registration list. Annual renewals shall be required from the date of this notice.

5. Upon application in a form determined by the corporation, the president may exempt any person or field of commerce from the registration or licensing requirements of this Chapter if in the president's sole discretion such person or field of commerce:

a. is currently and sufficiently regulated by a public agency; or

b. will provide goods or services in insubstantial or insignificant amounts or quantities; or

c. does not need to be licensed or registered in order to protect the public or to accomplish the policies established by this Chapter.

6. Any license or approval issued pursuant to this Chapter is a revocable privilege. Any vendor registrant may be called forward for licensing by the corporation at any time and required to demonstrate by clear and convincing evidence his suitability as defined in LAC 42:IX.2333. The president in his sole discretion may revoke any approval or registration during the pendency of this call-forward procedure.

7. Failure to meet the standards of the Casino Act or pay any fee prescribed herein shall be grounds for the corporation to refuse to place such vendor on the vendor registration list. The casino operator shall not conduct any business with any vendor excluded from the list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:624(A) and 638.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2707. Annual Renewals

One year from the date of written notification of inclusion on the vendor registration list, a vendor shall remit an annual renewal fee of \$100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:624(A).

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

Subchapter B. Junket Representatives

§2709. Junket Representatives

A. A junket representative who arranges transportation for preferred guests or makes recommendations for approval of the extension of gaming credit on behalf of the casino operator, or collects a debt evidenced by a credit instrument, shall be licensed with the corporation prior to doing any business on behalf of the casino operator.

B. A junket representative shall not transact business on behalf of the casino operator other than is customary in the industry.

C. An application for licensing as a registered junket representative shall be made on the forms provided and furnished by the corporation and shall also include at the minimum:

1. the name, address, and type of organization of the junket representative;

2. a copy of any proposed agreement between the casino operator and the junket representative. If the proposed agreement is not in writing, the filing shall include a detailed written description of the proposed arrangement;

3. a personal financial questionnaire for the junket representative;

4. the designation of persons whom the junket representative may use as a secondary representative;

5. a statement on a form furnished or approved by the president that the junket representative:

a. submits to the jurisdiction of the state of Louisiana and the corporation;

b. designates the secretary of state as its representative

upon whom service of process may be made; and

c. agrees to be bound by the laws of the state of Louisiana and the regulations of the corporation;

6. if the junket representative is not an individual, the president may designate the officers and principals of the junket representative that shall provide this information to the corporation;

7. the junket representative shall also provide its filing to the casino operator for transmittal to the corporation. The corporation may reject filing made directly by the junket representative.

D. Upon application, the corporation may at the discretion of the president issue a temporary license to the applicant. Temporary licenses expire six months after the date of issuance or upon the issuance of a permanent license, and immediately upon denial of a permanent license or other similar order by the president.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:638.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2711. Determination of Suitability of Junket Representatives

The casino operator upon written notification of the finding of unsuitability, shall immediately terminate all relationship, direct or indirect, with the junket representative. Failure to terminate such relationship may be deemed to be an unsuitable method of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631 and 633.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

§2713. Reporting Requirements of Junket Representatives

A. Annually, on or before July 15, each registered junket representative shall file a list of all secondary representatives on a form furnished or approved by the president. The casino operator shall send a notice annually, on or before June 1, to each junket representative under contract, advising the registered junket representative of the requirements of this Section.

B. The registered junket representative shall report addition, deletions and changes to the following items to the president within 30 days thereof:

1. the registered junket representative's address or telephone number;

2. the officers, directors, or shareholders or partners of the registered junket representative;

3. this list of secondary representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:602, 620, 631, and 633.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

Chapter 33. Compliance and Disciplinary Actions

§3301. Minority Participation

A. The casino operator and the casino manager shall adopt written policies, procedures and regulations to allow the participation of businesses owned by minorities in all such design, engineering, construction, banking and maintenance contracts and any other projects initiated by the casino operator or casino manager. The written policies, procedures

and regulations shall provide for the inclusion of businesses owned by minorities to the maximum extent practicable, consistent with applicable law.

B. All businesses or vendors selected by the casino operator and the casino manager for any purpose shall strictly adhere to the nondiscrimination policies and practices embodied in applicable federal, state, and local law.

C. The casino operator and the casino manager shall, as nearly as practicable, employ minorities consistent with the population of the state and consistent with applicable law.

D. No employee shall be denied the equal protection of the law. No regulation or policy shall discriminate against an employee because of race, religious ideas, beliefs or affiliations. No regulation or policy shall arbitrarily, capriciously or unreasonably discriminate against an employee because of birth, age, sex, culture, physical condition, political ideas or affiliations. Slavery and involuntary servitude are prohibited, except in the latter case as punishment for a crime.

E. In furtherance of the mandate set forth in the preceding four Subsections, the corporation shall monitor the casino operator and casino manager's hiring and contracting practices and exercise enforcement authority, as described below:

1. the casino manager and casino operator shall file with the corporation, copies of all reports that it files with the City of New Orleans pursuant to any program or plan undertaken;

2. in addition to those reports filed, the casino operator and casino manager shall file with the corporation quarterly reports reflecting:

a. applicants for employment during the quarter with their race, sex, and parish (or county and state, if outside of Louisiana);

b. employees hired during the quarter with their race, sex, parish (or county and state, if outside of Louisiana), length of residency and EEO category;

c. all contractors first signing contracts during the quarter with their race, sex, and parish (or county and state, if outside Louisiana) wherein their principal of business is located;

d. evidence of statewide recruitment efforts for employment and contractual services;

e. all complaints received by the casino operator and casino manager related to hiring contractual services. Such reports shall include name, address, nature of the complaint and the disposition;

3. if at any time the corporation shall conclude that the contractor is conducting itself in a manner inconsistent with the requirements of Louisiana state law or these regulations, the corporation may take enforcement action including but not limited to fines, and the imposition of a plan that, in the discretion of the board meets the objectives of the act and these regulations and is otherwise consistent with the law.

AUTHORITY NOTE: R.S. 4:602(F) and (G), LSA Constitution, Article 1, Section 3.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

Wilmore W. Whitmore
President

9411#006

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746—Certification of School Personnel

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 the following amendment to be placed in front of Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Effective August 1, 1994, certification requirements will comply with the provisions of Act 1 of 1994 and Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment.

Readoption as an emergency rule will ensure that certification requirements will comply with the provisions of Act 1 of 1994 which are effective August 1, 1994 and Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment. The effective date of this emergency rule is November 28, 1994.

AUTHORITY NOTE: R. S. 17:6(A)(10); R.S. 17:7; ACT 1 of 1994.

Carole Wallin
Executive Director

9411#012

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746—Health Certification Requirements

The State 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, continuation of the current certification requirements in health as specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Prior to this action, effective fall of 1994, teachers pursuing certification in health would be required to complete requirements for health and physical education. Maintaining the current health certification requirements will enable any secondary certified teachers to add this area of certification without physical education courses and will allow greater flexibility for teachers and school systems in providing the one-half unit in health education which is now a high school graduation requirement.

Readoption as an emergency rule is necessary in order to continue the present emergency rule until finalized as a rule. The effective date of this emergency rule is November 28, 1994.

AUTHORITY NOTE: R. S. 17:6(A),(10); R. S. 17:7

Carole Wallin
Executive Director

9411#015

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1882—Administrative Leadership
Academy Guidelines, 1994
(LAC 28:I.920)

The State 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, Revised Bulletin 1882, Administrative Leadership Academy Guidelines, 1994. The proposed revisions to Bulletin 1882 are designed to clarify academy requirements and procedures. Bulletin 1882 is also referenced in the Administrative Code as noted below.

The complete document may be seen in the Office of the Louisiana Register located on the Fifth Floor of the Capitol Annex, 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.

Readoption as an emergency rule is necessary in order to continue the present emergency rule until it is finalized as a rule. The effective date of this emergency rule is November 28, 1994.

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

Carole Wallin
Executive Director

9411#014

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1943—Teacher Assessment—Grievance Procedure

The State 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 Section X, Grievance Procedures as an addition to Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment.

The complete document may be obtained from the Office of the State Register, located on the fifth floor of the Capitol Annex, 1501 North Third Street, Baton Rouge, LA; in the Bureau of Research and Development of the State Department of Education; or in the Office of the State Board of Elementary and Secondary Education located in the Department of Education building in Baton Rouge, LA.

Readoption as an emergency rule is necessary in order to continue the present emergency rule until finalized as a rule. Effective date of this emergency rule is November 28, 1994.

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

Carole Wallin
Executive Director

9411#013

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

CNA Register Operation (LAC 46:XLIX.1601-1603)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Examiners of Nursing Facility Administrators hereby finds it necessary to adopt an emergency rule relative to the issuance of certificates and cards of certification for nurse aides.

Emergency adoption is necessary due to the fact nurse aides are required by statute to re-register bi-annually on or prior to December 31, 1994. Without this rule change the board would be unable to provide certificates or cards of certification with the re-registration.

The full text of this rule has been proposed for adoption through a notice of intent published in the October, 1994 *Louisiana Register*, and it is anticipated that rule promulgation will occur January 20, 1995.

The effective date of this emergency rule is December 1, 1994 and it shall remain in effect for the maximum period allowed or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 16. Certified Nurse Aide Register §1601. Operation of CNA Register

A. The board shall establish and operate a state register which shall include information mandated by the US DHHS on certified nurse aides. The register shall be operated consistent with an inter-agency agreement with the Louisiana Department of Health and Hospitals' Division of Health Services Financing.

B. Information contained in the register shall be available

to administrators of health care facilities as determined by DHH which shall be responsible for the actual certification of nurse aides and shall determine when a nurse aide is eligible to be placed on the register together with the listing of any violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 21:

§1603. Certificate of Certification

A. The board shall assess a fee for issuing a certificate or a card of certification upon request by a certified nurse aide. This fee shall not exceed \$10 per year.

B. The fee to replace a certificate or card of certification shall not exceed \$20.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 21:

Kemp Wright
Executive Director

9411#029

DECLARATION OF EMERGENCY

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

Case Management Services for Optional Targeted Population Groups and Waiver Progress

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

The Bureau of Health Services Finances currently funds case management services to the following specific population groups: 1) mentally retarded or developmentally disabled individuals including developmentally disabled infants and toddlers (termed infants and toddlers with special needs under this emergency rule); 2) pregnant women in need of extra perinatal care (termed high-risk pregnant women under this emergency rule) (limited to the metropolitan New Orleans area); 3) HIV disabled individuals (termed persons infected with HIV under this emergency rule); 4) chronically mentally ill (termed seriously mentally ill individuals - for adults and children/youths with emotional/behavioral disorders under this emergency rule); 5) participants in waivers which include case management as a service; and 6) ventilator-assisted

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

There has been a tremendous growth in interest on behalf of the public in providing these services to the Medicaid populations. In addition, as these services have been implemented and governed under specific program regulations over the past five years, the department now seeks to enhance all these services to the optimal level while streamlining their administration. In addition this emergency rule establishes enhanced regulations governing consumer eligibility and provider enrollment, participation and reimbursement. The Department adopted emergency rules to ensure uniform standards for the quality of the services delivered to these persons with special physical and/or health needs and conditions effective July 22, 1994 and August 13, 1994. This emergency rule continues this initiative in force.

Emergency Rule

Effective November 19, 1994, the Bureau of Health Services Financing repeals all previously adopted rules on case management services provided either to optional targeted population groups or to participants under a waiver program and adopts regulations governing case management services to these groups including requirements for consumer eligibility, provider participation, enrollment, services delivery for all groups, standards for payment, reimbursement and applicable general provisions. Services for ventilator-assisted children are terminated as a specific targeted group but these children may be eligible under the other optional targeted population groups. All case management providers must follow the policies and procedures included in the full text of this emergency rule as well as in the *Department of Health and Hospitals Case Management Provider Manual*. Under this rule the term *case management* has the same meaning as the term *family service coordination*. Case management services must be delivered in accordance with all applicable federal and state laws and regulations.

A copy of the full text of this emergency rule may be obtained from the Department of Health and Hospitals, Office of the Secretary, 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.

Interested parties 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 the person responsible for providing information on this emergency rule. A copy of this emergency rule is available at the parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

9411#054

DECLARATION OF EMERGENCY

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

Disproportionate Share Payment Methodology

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule whichever occurs first.

The Medicaid Program previously reimbursed hospitals serving a disproportionate share of low income patients via twelve pools with payments based on Medicaid days. This payment methodology was implemented effective February 1, 1994 by means of emergency rulemaking to comply with the Health Care Financing Administration's policy on Section 1923 (Adjustment in Payments for Inpatient Hospital Services Furnished by Disproportionate Share Hospitals) of the Social Security Act (42 U.S.C. Section 1396r-4). In addition, disproportionate share payments for indigent care based on free care days were made by establishment of a payment methodology which reimbursed providers for indigent care days based on a Medicaid per diem equivalent amount.

The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) amended Section 1923 of the Social Security Act by establishing individual hospital disproportionate share payment limits. To comply with these new provisions, the bureau implemented the following changes to its methodologies, for qualification and calculation of, disproportionate share payments: require that each qualifying disproportionate share hospital has a Medicaid inpatient utilization rate of not less than 1 percent, limit publicly owned or operated hospitals to 100 percent of uncompensated cost, and establish a transition year (State Fiscal Year 1994-95) in which public hospitals meeting specified criteria may not exceed 200 percent of uncompensated cost. These changes were implemented effective July 1, 1994 and published in the *Louisiana Register*, Volume 20, Number 7.

Implementation of this rule will not decrease or increase expenditures as disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state payment cap for each federal fiscal year.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends its methodologies for qualification and calculation of disproportionate share payments for inpatient hospital services for Medicaid days and indigent care days effective for dates of service on or after July 1, 1994. Below are the following revised methodologies as modified in the State Plan,

Attachment 4.19-A Items 1, 14 and 16 - Methodology for Disproportionate Share Adjustments.

Disproportionate Share Payments - Qualifying Criteria for a Disproportionate Share Hospital

Effective on July 1, 1994, the qualifying disproportionate share hospital must have a Medicaid inpatient utilization rate of at least one percent, in addition to the qualification criteria outlined in Item 1, D.1. a-d.

Disproportionate Share Payments Methodology

DSH payments to individual publicly owned or operated hospitals (except for those hospitals qualifying for payments in the transition period as described below) will not exceed 100 percent of the hospital's uncompensated costs as defined below. A transition period is established for high disproportionate share public hospitals for services furnished from July 1, 1994 through June 30, 1995. A high disproportionate share hospital is defined below. During this transition period public "high disproportionate share hospitals" shall receive disproportionate share payments not to exceed 200 percent of the hospital's uncompensated costs.

The governor must certify to the secretary of the Department of Health & Human Services that the hospitals' DSH payments in excess of 100 percent of the uncompensated costs are used for health services.

The department will issue instructions to affected providers with regard to procedures for payments made pursuant to this rule.

Definitions

High Disproportionate Share Hospital—the hospital is owned or operated by state or local government entity; and the hospital

- (1) has a Medicaid utilization rate that is at least one standard deviation above the mean Medicaid utilization rate for hospitals receiving Medicaid payments in the state. The statewide mean Medicaid utilization rate will be calculated based on the latest federal fiscal year in which all cost reports are audited and/or desk reviewed by the audit intermediary. Determination of hospitals qualifying under this provision as a high disproportionate share hospital will be made using the latest filed cost report prior to July 1, 1994; or
- (2) has the largest number of Medicaid inpatient days of any hospital in the state for the state fiscal year ending June 30, 1994.

Uncompensated Cost—costs incurred during the federal fiscal year of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), commercial insurance payments, private payor payments, and all other inpatient and outpatient payments received from patients or through third party coverage.

Disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state payment cap for each federal fiscal year. The department shall make necessary adjustments to hospitals to remain within the federal cap. In the event it is necessary to adjust the amount of disproportionate share funds to remain within the federal cap each year, the department shall calculate a pro rata amount to each hospital based on each hospital's percent of increase of

disproportionate share payments in the current year as compared to the previous year. This calculation shall only affect hospitals with an increase in disproportionate share payments from the previous year.

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

Rose V. Forrest
Secretary

9411#010

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Admission

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing reimburses inpatient hospital psychiatric services in a variety of hospital settings for Medicaid eligibles under twenty-one years of age and over sixty-five years of age. The bureau has adopted standards governing the provision of inpatient psychiatric services including "Standards for Payment - Psychiatric Hospitals" on October 20, 1987; "Standards for Payment of Inpatient Psychiatric Services - Distinct Part Psychiatric Units" on March 1, 1994; and "Pre-Admission Certification and Length of Stay Criteria for Inpatient Hospital Services" on July 1, 1994. The bureau has determined, based upon hospital survey data obtained from on-site inspections of care and administrative reviews, that there have been inappropriate psychiatric inpatient admissions of Medicaid eligibles and applicants. Therefore, the bureau has adopted the following emergency rule to establish uniform medical eligibility criteria to ensure medical necessity for admissions to all inpatient psychiatric services including services provided in distinct part psychiatric units, free-standing psychiatric hospitals and hospital-based medical detoxification services for alcoholism and drug abuse. The bureau anticipates that uniform admissions criteria will facilitate more effective program administration and oversight; thereby preventing possible loss of federal funding for these services and/or sanctions by the federal government. This emergency rule adopts the following medical eligibility criteria for admissions to all inpatient hospital psychiatric services and supersedes all prior regulations governing medical eligibility criteria for all

admissions to inpatient psychiatric services regardless of the particular type of hospital setting wherein these services are provided. However this emergency rule does not affect the pre-admission certification requirement for inpatient psychiatric services provided by long term hospitals and by distinct part psychiatric and substance abuse units in acute care hospitals. It does not revise the bureau's review and approval process for psychiatric inpatient admissions to free-standing psychiatric hospitals. The estimated aggregate annual Medicaid expenditure reduction resulting from this emergency rule is \$8,272,000.

Emergency Rule

Effective November 1, 1994 the Bureau of Health Services Financing adopts the following medical eligibility criteria to ensure the medical necessity for all admissions to inpatient hospital psychiatric services including services provided in distinct part psychiatric units, free-standing psychiatric hospitals and hospital-based medical detoxification services for alcoholism and drug abuse. This criteria must be met in order for hospitals or distinct part psychiatric units to receive reimbursement under the Medicaid Program for these services. The bureau has formulated this medical eligibility criteria for inpatient psychiatric services according to categories for adults and children and utilizes the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders III-R*. In addition this emergency rule readopts current regulations governing reimbursement for inpatient psychiatric services under the Medicaid Program.

I. Psychiatric Hospital Admission Criteria For Adults

Severity of Illness and Intensity of Service criteria must be met.

Severity of Illness

The patient must meet one or more of A or B or C. If category C is utilized, the requirements for that category must be met.

A. Patient presents as a danger to self as evidenced by any of the following:

1. a suicide attempt within the past 72 hours;
2. documentation that the patient has a current suicide plan, specific suicide intent, or recurring suicidal ideation;
3. documentation of self-mutilative behavior occurring within the past 72 hours; OR

B. Patient presents as a danger to others due to a DSM-III-R Axis I diagnosis as evidenced by any of the following:

1. dangerously aggressive behavior during the past seven days due to a DSM-III-R Axis I diagnosis;
2. threats to kill or seriously injure another person with the means to carry out the threat and the threatening behavior is due to a DSM-III-R Axis I diagnosis;
3. documentation that the patient has a current homicide plan, specific homicidal intent, or recurrent homicidal ideation and this is due to a DSM-III-R Axis I diagnosis; OR

C. Patient is gravely disabled and unable to care for self due to a DSM-III-R Axis I diagnosis as evidenced by the following. If indicator 1 is selected it must be accompanied by 2 or 3.

1. Documentation of a serious impairment in function

as compared to others of the same age in one or more major life role (school, job, family, interpersonal relations, self-care, etc.) due to a DSM-III-R Axis I diagnosis;

2. Inability of patient to comply with prescribed psychiatric and/or medical health regimens as evidenced by the following:

a. patient has a history of decompensation without psychotropic medications and patient refuses to use these medications as an outpatient; OR

b. patient is at risk of health or life due to noncompliance with medical regimens (e.g., insulin-dependent diabetes, etc.) and patient refuses these medical regimens as an outpatient;

3. patient presents with acute onset or acute exacerbation of hallucinations, delusions, or illusions of such magnitude that the patient's well being is threatened.

Intensity of Service

The patient must meet all the criteria below.

A. Ambulatory (outpatient) care resources in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care; AND

B. Services provided in the hospital can reasonably be expected to improve the patient's condition or prevent further regression so that the services will no longer be needed by the patient; AND

C. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis, requiring 24 hour nursing observation, under the direction of a psychiatrist, such as, but not limited to:

1. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others. The patient requiring this treatment must not be on independent passes or unit passes without observation or being accompanied by hospital personnel or responsible other;

2. active intervention by a psychiatric team to prevent assaultive behavior. The patient requiring this treatment must not be on independent passes or unit passes without observation or being accompanied by hospital personnel or responsible other;

3. the patient exhibits behaviors that indicate that a therapeutic level of medication has not been reached and this necessitates 24 hour observation and medication stabilization. The patient requiring this treatment must not be on independent passes or unit passes without observation or being accompanied by hospital personnel or responsible other.

Exclusionary Criteria

If the adult meets one or more of the following criteria, admission is denied.

1. Patients with a major medical or surgical illness or injury that would prevent active participation in a psychiatric treatment program. Patients must be medically stable.

2. Patients with criminal charges who do not have a DSM-III-R Axis I diagnosis.

3. Patients whose anti-social behaviors are a danger to others and those anti-social behaviors are characterological rather than due to a DSM-III-R Axis I diagnosis.

4. Patients who have a DSM-III-R Axis II diagnosis of mental retardation without an accompanying DSM-III-R Axis I diagnosis.

II. Psychiatric Hospital Admission Criteria For Children

Severity of Illness and Intensity of Service criteria must be met.

Severity of Illness Criteria

Child must meet Criteria A or B or C.

A. Child is a danger to self. Indicator 1, 2 or 3 and 4 must exist to meet Criteria A.

1. The child has actually made an attempt to take his/her own life in the last twenty-four hours. Details of the attempt must be documented; OR

2. The child has demonstrated self-mutilative behavior within the past twenty-four hours. Details of behavior must be documented; OR

3. The child has a clear plan to seriously harm him/herself, overt suicidal intent, recurrent suicide thoughts, and lethal means available to follow the plan. This information can be from the child or a reliable source. Details of the plan must be documented; AND

4. It is the judgement of a mental health professional that the child is at significant risk of making a suicide attempt without immediate inpatient intervention.

B. Child is a danger to others or property due to a DSM-III-R Axis I diagnosis as indicated by: Indicator 1, 2, or 3 and 4 must exist to meet Criteria B. The criteria must arise from a DSM-III-R Axis I Diagnosis, and include the specific criteria that were met in order to justify that diagnosis.

1. The child has actually engaged in behavior harmful or potentially harmful to others or cause serious damage to property which would pose a serious threat of injury or harm to others within the last 24 hours. Description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to present; OR

2. The child has made threats to kill or seriously injure others or to cause serious damage to property which would pose a threat of injury or harm to others, and has effective means to carry out the threats. Details of the threats must be documented; OR

3. A mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm others or property. Details must be documented; AND

4. It is the judgement of a mental health professional that the child is at significant risk of making a homicide attempt or engaging in other seriously aggressive behavior without immediate inpatient intervention.

C. Child is gravely disabled due to a DSM-III-R Axis I diagnosis as indicated by: Indicator 1 and either 2, 3 or 4 must exist to meet Criteria C. The criteria must arise from a DSM-III-R Axis I Diagnosis, and include the specific criteria that were met in order to justify that diagnosis.

1. The child has serious impairment of functioning compared to others of the same age in one or more major life roles (school, family, interpersonal relations, self-care, etc.) Specific description of the following must be documented:

a. deficits in control, cognition or judgement;

b. circumstances resulting from those deficits in self-care, personal safety, social/family functioning, academic or occupational performance;

c. prognostic indicators which predict the effectiveness of acute treatment; AND (Indicator 1 must be accompanied by 2, or 3, or 4 below)

2. The acute onset of psychosis or severe thought disorganization or clinical deterioration has rendered the child unmanageable and unable to cooperate in nonhospital treatment; OR

3. There is a need for medication therapy or complex diagnostic testing where the child's level of functioning precludes cooperation with treatment in an outpatient or nonhospital based regimen, and may require close supervision of medication and/or forced administration of medication; OR

4. A medical condition co-exists with a DSM-III-R Axis I diagnosis which, if not monitored/treated appropriately, places the child's life or well-being at serious risk.

Intensity of Service Criteria

Child must meet Criteria A and B and C.

A. Services in the community do not exist or do not meet the treatment needs of the child, or the child has been unresponsive to treatment at a less intensive level of care. The services considered, tried, and/or needed must be documented; AND

B. Services provided in the hospital can reasonably be expected to improve the child's condition or prevent further regression so that the services will no longer be needed by the child; AND

C. Treatment of the child's psychiatric condition requires services on an inpatient basis, including 24 hour nursing observation, under the direction of a psychiatrist. The child requiring this treatment must not be on independent passes or unit passes without observation or being accompanied by hospital personnel or a responsible other. These services include but are not limited to:

1. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others or property;

2. active intervention by a psychiatric team to prevent assaultive behavior;

3. twenty-four hour observation and medication stabilization because the child exhibits behaviors that indicate that a therapeutic level of medication has not been reached.

Exclusionary Criteria

If child meets one or more of the following criteria, admission is denied.

1. The child has a major medical or surgical illness or injury that prevents active participation in a psychiatric treatment program.

2. The child has criminal charges and does not meet severity of illness and intensity of service criteria.

3. The child has anti-social behaviors that are a danger to others and does not have a DSM-III-R Axis I diagnosis.

4. The child has a DSM-III-R Axis II diagnosis of mental retardation and does not meet severity of illness and intensity of service criteria.

5. The child lacks a place to live and/or family supports and does not meet severity of illness and intensity of service criteria.

6. The child has been suspended or expelled from school and does not meet severity of illness and intensity of service criteria.

III. Admission Criteria For Hospital-Based Medical Detoxification Services for Alcoholism and Drug Abuse Admission Criteria.

Severity of Illness and Intensity of Service criteria must be met.

Hospital-based medical detoxification services for alcoholism and drug abuse shall comply with both of the following criteria and their accompanying specifications:

1. Admit only patients assessed as meeting the criteria for substance use disorder and principle diagnosis of substance abuse as defined by the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders III-R* or the chapter entitled "Mental Disorders" in the *International Classification of Diseases-9*; AND

2. Certify that the patient meets the specifications in one of the dimensions of A, B, or C.

A. Acute alcohol and/or other drug intoxication and/or potential withdrawal — two of the following:

1. The patient is assessed as at risk for severe withdrawal syndrome as evidenced by:

a. CIWA-A (Clinical Institute Withdrawal Assessment-Alcohol) score (or other comparable standardized scoring system) greater than or equal to 20;

b. blood alcohol greater than 0.1 gm percent with withdrawal symptoms present, or blood alcohol greater than 0.3 gm percent;

c. pulse greater than 110 or blood pressure higher than 160/110 and CIWA-A or comparable score greater than 10;

d. history of seizures, hallucinations, myoclonic contractions, or delirium tremens when withdrawing from similar amounts of alcohol;

e. seizure, delirium tremens, hallucinations, myoclonic contractions, or hyperpyrexia;

f. daily ingestion of sedative hypnotics for over six months plus daily alcohol use, or regular use of another mind-altering drug known to have its own withdrawal syndrome, and the patient has an accompanying chronic mental/physical disorder;

g. daily ingestion of sedative hypnotics above the recommended therapeutic dosage level for at least four weeks and the patient has an accompanying chronic mental/physical disorder;

h. antagonist medication used in the withdrawal (e.g., pharmacological induction of opiate withdrawal and subsequent management);

i. head trauma or loss of consciousness within 24 hours with resultant need to observe the intoxicated patient closely;

j. a patient with a history of opioid use who exhibits grade two or above opioid withdrawal (e.g., muscle twitching, myalgia, arthralgia, anorexia, nausea, vomiting, diarrhea, extremes of vital signs, dehydration, or "curled up position") requiring acute nursing care for management;

k. drug overdose compromising mental status, cardiac functioning or other vital signs;

l. patient with a history of daily opioid use for at least two weeks before admission and past attempts to stop at

similar doses have resulted in one or more of the following withdrawal symptom: muscle twitching, myalgia, arthralgia, abdominal pain, rapid breathing, fever, anorexia, nausea, vomiting, diarrhea.

2. There is a strong likelihood the patient will not complete detoxification as evidenced by:

- a. a past history of detoxification at a less intense level of care without completion of detoxification;
- b. current use of medications or medical conditions known to interfere with ability to complete detoxification (MAO inhibitors with alprazolam).

3. This is the only available level of care that can provide the needed medical support and comfort for the patient as evidenced by:

a. detoxification regimen or patient's response to the regimen requires monitoring at least every two hours (e.g., clonidine detoxification with opiates or high dose benzodiazepine withdrawal); OR

b. the patient requires detoxification while pregnant; OR

B. Biomedical conditions and complications due to a primary diagnosis of a substance use disorder; one of the following conditions is required:

1. biomedical complications of addiction requiring medical management and skilled nursing care;
2. concurrent biomedical illness or pregnancy needing stabilization and daily medical management with daily primary nursing interventions;
3. presence of biomedical problems requiring inpatient diagnosis and treatment, such as:
 - a. liver disease or problems with impending hepatic decompensation;
 - b. acute pancreatitis requiring parenteral treatment;
 - c. active gastrointestinal bleeding;
 - d. cardiovascular disorders requiring monitoring;
 - e. multiple current medical problems;
4. recurrent or multiple seizures;
5. disulfiram-alcohol reaction;
6. life-threatening symptomatology related to excessive use of alcohol or other drugs (stupor, convulsions, etc.);
7. chemical use gravely complicating previously diagnosed medical conditions;
8. changes in the patient's medical status such as severe worsening of a medical condition making abstinence imperative, or significant improvement in an unstable medical condition allowing response to chemical dependency treatment;
9. demonstrating biomedical problems requiring 24-hour observation and evaluation; OR

C. Emotional/behavioral conditions and complications due to a primary diagnosis of a substance use disorder (one of the following):

1. emotional/behavioral complications of addiction requiring medical management and skilled nursing care;
2. concurrent emotional/behavior illness needing stabilization and daily medical management and primary nursing interventions;
3. uncontrolled behavior endangering self or others;
4. co-existing serious emotional/behavioral disorder

which complicates the treatment of chemical dependency and requires differential diagnosis and treatment;

5. extreme depression presenting in a patient resulting in the patient being a danger to self or others;

6. thought process impairment, impairment in abstract thinking, limitation in ability to conceptualize to the degree that the patient's major life areas are severely impaired;

7. alcohol and other drug use gravely complicates or exacerbates previously diagnosed psychiatric or emotional/behavioral condition;

8. altered mental status with or without delirium as manifested by:

- a. disorientation to self;
- b. alcoholic hallucinations;
- c. toxic psychosis.

Intensity of Services

One or more of the following service needs must be met:

1. intensive treatment with medications for delirium tremens;
2. I.V. medications or total parenteral nutrition (T.P.N.);
3. documented detoxification regime of decreasing drug dosage;
4. neurological checks and vital signs every two hours and "visual checks" every 15 minutes;
5. Environmental control such that the patient is prevented from harming self or others.

IV. General Provisions

1. The pre-admission certification requirement for inpatient psychiatric services provided in long term hospitals and in distinct part psychiatric units by acute care hospitals remains unchanged.

2. The bureau's review and approval process for inpatient psychiatric admissions in free-standing psychiatric hospitals remains unchanged.

3. Inpatient admissions for dual Medicare/Medicaid beneficiaries are subject to these requirements when Medicare Part A benefits have been exhausted.

4. Medicaid reimbursement for inpatient psychiatric services will continue to be made in accordance with the bureau's established payment policies and procedures.

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

Rose V. Forrest
Secretary

9411#009

DECLARATION OF EMERGENCY

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

Non-emergency Medical Transportation Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

Summary

Medicaid currently reimburses for nonemergency medical transportation services to Medicaid recipients on the basis of a flat fee per trip or a monthly capitated rate for recipients utilizing more than 10 trips per month for medical services (i.e. hemodialysis, chemotherapy, etc.) which are regular, predictable and continuing. There is a shortage of transportation providers to assure access to medical services for recipients who are wheelchair bound and nonambulatory as well as for recipients under capitated rates who live in remote rural areas or who have more than five trips per week. The department is increasing the rates for these specific nonemergency transportation services. This action is necessary to assure that Medicaid recipients of these types of services have access to necessary medical services. Additionally, in conjunction with this rule, the bureau has begun maintaining complaint files on each nonemergency medical transportation provider to assure compliance with state and federal regulations and recognition of recipient rights. The total projected increase in expenditures in the current fiscal year as a result of this rule is \$1,508,852 which is anticipated to remain within the budgeted allocation for nonemergency transportation services.

Emergency Rule

Effective for dates of service November 1, 1994 and after, the Department of Health and Hospitals, Bureau of Health Services Financing, amends the previous rule to allow for establishment of additional rates for reimbursement of specific nonemergency medical transportation (NEMT) services to implement the following:

1. *Remote Rural Capitated Rates*—defined as rural capitated trips that are greater than 120 miles round-trip as established by the Dispatch Office. These trips will be paid at a monthly rate of \$300.

2. *Enhanced Capitated Rates*—defined as capitated rates for Medicaid recipients who require five or more trips on a weekly basis as established by the Dispatch Office. These trips will be paid at a monthly rate of \$300.

3. a. *Wheelchair trips (local)*—the rate for local trips for wheelchair bound patients who are nonambulatory shall be increased from \$15 per round trip to \$25 per round trip. This

is not applicable to capitated trips which are paid on a monthly basis.

b. *Wheelchair-Capitated/Rural*—the monthly capitated rate for wheelchair bound patients who are nonambulatory shall be established at \$250 per month.

c. *Wheelchair-Capitated/Urban*—the monthly capitated rate for wheelchair bound patients who are nonambulatory shall be established at \$180 per month.

In addition to establishing the above specialized rates, the bureau has begun to maintain complaint files on each nonemergency medical transportation provider regarding failure to pick up recipients in a timely manner before or after medical appointments or arriving too late for appointments. At annual vehicle inspections, the volume of complaints for that provider shall be reviewed and a determination made regarding the provider's continued participation in the program if complaint volume indicates repeated problems with adhering to the NEMT Program's regulations (federal and state). In the event participation in the program is affected based upon the volume of valid complaints, the bureau will adhere to existing procedures for due process.

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

Rose V. Forrest
Secretary

9411#003

DECLARATION OF EMERGENCY

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

Private Hospitals Inpatient Hospital Services
Disproportionate Share Methodologies

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

The Medicaid Program previously reimbursed private hospitals and publicly owned or operated hospitals serving a disproportionate share of low income patients via twelve pools with payments based on Medicaid days. This payment methodology was implemented effective February 1, 1994 by

means of emergency rulemaking to comply with the Health Care Financing Administration's policy on Section 1923 (Adjustment in Payments for Inpatient Hospital Services Furnished by Disproportionate Share Hospitals) of the Social Security Act (42 U.S.C. Section 1396r-4). In addition, disproportionate share payments for indigent care based on free care days were made by establishment of a payment methodology which reimbursed providers for indigent care days based on a Medicaid per diem equivalent amount.

The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) amended Section 1923 of the Social Security Act by establishing individual hospital disproportionate share payment limits. To comply with these new provisions, the bureau implemented an emergency rule on disproportionate share payments which included provisions governing the qualifications applicable to private and public hospitals and payment methodology applicable to publicly owned or operated hospitals only on July 1, 1994 which was published in the *Louisiana Register*, Volume 20, No. 7. The following emergency rule continues in force the regulations adopted on March 30, 1994 and July 28, 1994, which are still applicable to the private hospitals. In addition the qualification applicable to both public and private hospitals included in the July 1, 1994 emergency rule which requires a disproportionate share hospital to have a Medicaid inpatient utilization rate of at least one percent is incorporated in the following emergency rule.

Implementation of this rule will not decrease or increase expenditures as disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state payment cap for each federal fiscal year.

Emergency Rule

Effective November 24, 1994, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends its methodologies for calculating disproportionate share payments for inpatient hospital services for Medicaid days and indigent care days provided by private hospitals. Qualification as a disproportionate share hospital shall be determined based upon the requirements outlined in the approved State Plan (Item 1, D.1. a-d) as well as the requirement that a hospital must have a Medicaid inpatient utilization rate of at least one percent (Item 1, D.1.a-e). Below are the following revised methodologies as modified in the State Plan, Attachment 4.19-A Items 1, 14, and 16 - Methodology for Disproportionate Share Adjustments.

Disproportionate Share Payments - Medicaid Days Pool Payments (Private Hospitals)

Qualification and payment adjustment for disproportionate share shall be based on the hospital's year end cost report for the year ending during April 1 through March 31 of the previous year. Example: Hospital has a fiscal year ending November 30, any disproportionate payment made after April 1, 1994 would be based on the November 30, 1993 cost report. Effective April 1995, payment would be made on the hospital's November 30, 1994 cost report. Hospitals which have not filed a cost report by March 31, 1994 will not participate in the disproportionate share payment pools from April 1, 1994 through March 31, 1995. Hospitals which meet the qualification criteria outlined in Item 1, D.1. a-e, based on

the latest filed fiscal year end cost report as of March 31st of each year shall be included in not more than two of following six pools for calculation of disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization, but for purposes of disproportionate share hospital payment adjustments, the distinct part psychiatric units shall be placed in the psychiatric pools while the acute medical/surgical shall be included in the appropriate teaching or non-teaching pool. Hospitals must meet the criteria for the pool classification based on their latest filed fiscal year-end cost report as of March 31st of each year. These six pools are as follows:

1) *Private Rural Acute Hospitals*—privately owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are designated as a rural hospital under criteria specified below.

2) *Private Rural Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in a rural area under criteria specified below.

3) *Private Teaching Hospitals*—privately owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are recognized as approved teaching hospitals under criteria specified below.

4) *Private Urban Non-teaching Hospitals*—privately owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are designated as urban hospitals and not recognized as approved teaching hospitals, under criteria specified below.

5) *Private Teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately owned distinct part psychiatric units/freestanding psychiatric hospitals which meet the criteria for recognition as approved teaching hospitals, under criteria specified below.

6) *Private Urban Non-teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in an urban area and do not meet the criteria for recognition as approved teaching hospitals, under criteria specified below.

The definitions for hospital classifications applicable to the above Medicaid days pools are given below.

Teaching Facility—a licensed acute care hospital in compliance with the Medicare regulations regarding such facilities, or a specialty hospital that is excluded from the prospective payment system as defined by Medicare. A teaching hospital must have a written affiliation agreement with an accredited medical school to provide post graduate medical resident training in the hospital for the specialty services provided in the specialty hospital. The affiliation agreement must contain an outline of its program in regard to staffing, residents at the facility, etc. A distinct part or carve-out unit of a hospital shall not be considered a teaching hospital separate from the hospital as a whole. Teaching hospitals that are not recognized by Medicare as an approved teaching hospital must furnish copies of graduate medical education program assignment schedules and rotation schedules to the department.

Urban Hospital—a hospital located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification under Medicare.

Rural Hospital—a hospital that is not located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification for Medicare.

Distinct Part Psychiatric Unit/Free-standing Psychiatric Hospital—distinct part psychiatric units of acute care general hospitals or psychiatric units in long term care and rehabilitation hospitals meeting the Medicare criteria for PPS exempt units and enrolled under a separate Medicaid provider number and freestanding psychiatric hospitals enrolled as such.

Hospitals which qualify as of March 31st of each year under the provisions in the approved state plan with fiscal year-end cost reports which do not reflect twelve months of cost report data shall have Medicaid days annualized by the bureau for purposes of the above pools. This includes hospitals which have partial year fiscal year-end cost reports as well as hospitals which added beds during the year to ensure that these are equally represented in the pool for the period of time to which the DSH payments will apply. Hospitals which request annualization of Medicaid days for purposes of the above pools must submit sufficient documentation to the bureau.

Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's total Medicaid inpatient days for the applicable cost report as adjusted for annualization by the total Medicaid inpatient days provided by all such hospitals in the state qualifying as disproportionate share hospitals in their respective pools and then multiplied by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient hospital days include Medicaid nursery days, but do not include SNF or swing-bed days.

Partial payments shall be made during federal fiscal year 1995 on dates as determined by the secretary of the Department of Health and Hospitals.

If at audit or final settlement of the cost reports on which the pools are based, the above qualifying criteria are not met, or the number of Medicaid inpatient days are reduced from those originally reported or annualized, appropriate action shall be taken to recover any over payments resulting from the use of erroneous data. No additional payments shall be made if an increase in days is determined after audit. Recoupments of overpayments from reductions in pool days originally reported or annualized shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the State for the year in which the recoupment is applicable.

Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments.

Disproportionate Share Payments - Indigent Care (Free Care) (Private Hospitals)

In addition to the six pools based on Medicaid days described above, the bureau will continue to reimburse qualifying hospitals (hospitals which meet the qualifying criteria in Item 1.D.1 a-e) an additional disproportionate share

adjustment payment based on the hospital's number of indigent care days provided under a indigent care plan approved by the bureau. Payment(s) shall be made during the federal fiscal year to qualifying disproportionate share hospitals for indigent care days based on the following criteria.

1) The indigent disproportionate share adjustment per diem payment will be limited to each hospital's total Medicaid per diem equivalent amount. The Medicaid per diem equivalent amount is the sum of the provider's base Medicaid per diem (cost based or prospective, as applicable) plus the provider's Medicaid disproportionate share per diem as established according to the Medicaid DSH pool in which the facility participates. For Federal Fiscal Year 1994, the indigent disproportionate share per diem amount will be each hospital's Medicaid per diem amount in effect as of March 1, 1994 and the Medicaid DSH pool per diem amount paid in accordance with the revised February 1994 pool amounts. For subsequent federal fiscal years, the indigent disproportionate share per diem amount will be the Medicaid per diem amount in effect the previous July 1st and the Medicaid DSH pool per diem amount as established for the federal fiscal year.

2) The indigent care payments will be determined based on each DSH hospital's (which qualified for DSH per the latest filed March 31st fiscal year-end cost report) indigent care days provided within the state fiscal year. Qualifying disproportionate share hospitals shall submit documentation of indigent care days provided during a state fiscal year within 120 days of the end of the state fiscal year in a format specified by the state and shall maintain documentation for all indigent care determinations for the same period Medicaid records for qualification for disproportionate share adjustment are maintained.

3) The department's Indigent Care Plan Criteria for recognition of indigent days in the Indigent Pool for additional disproportionate share payments are delineated below:

a) The annual family income for patients qualifying for indigent care may not exceed 200 percent of the Federal Poverty Income Guidelines for the period of time in which the services were provided.

b) The facility must advise the public of the availability of indigent care services and of its policies for qualifying patients for indigent care. The facility must post a written copy of its policy conspicuously in all patient treatment areas, admissions and provide individual written notices to patients and/or their family members upon admission.

c) The facility must provide a form for individuals to apply for indigent care services upon admission to the facility. These forms must be maintained on file and be available for audit in accordance with all state and federal rules and regulations. The application must be signed by the applicant except for patients deemed mentally unstable by the physician and for whom access for interview has been restricted by physician's orders. The facility must supply auditors with facility's procedures for verification of available payment sources for such patients. Documentation must be in the files to prove Medicaid eligibility resources have been exhausted (i.e. application denied) for recognition as an indigent care patient.

d) The facility must make a determination of the

patient's eligibility for indigent care services within two working days after application, notify the patient properly of the decision, and keep a copy on file for audit in accordance with state and federal rules and regulations. Income verification should be attempted via review of pay stubs, W-2 records, unemployment compensation book, or collateral contact with employer etc. If income verification has not been completed within two working days, the facility may condition the determination of eligibility on income verification. The facility may also condition the determination of indigent care eligibility on application for Medicaid eligibility. The conditional determination must be completed within two working days of the request for indigent care.

e) The facility must maintain a log of indigent care services provided each fiscal year for audit purposes in compliance with state and federal rules and regulations. Patient identifying information such as patient name, social security number, date of birth, dates of service, medical record number, patient account number, number of free care days, and amount of indigent care charges must be included on the log.

f) An indigent day may be included in the indigent care days count only to the extent that the entire day is deemed to be an indigent care day. If indigence is determined on a sliding scale which is based on total charges, any day for which the patient is liable for more than 50 percent of the charges may not be considered as an indigent care day. Inpatient days denied for Medicaid recipients who had exhausted their Medicaid inpatient days may be recognized as indigent days provided that documentation of the reasons for denial demonstrates that the recipient is over the limit of days. Medicaid days denied for other reasons resulting from failure to comply with Medicaid policies and procedures will not be recognized as indigent days. Inpatient days paid by Medicaid are NOT recognized as indigent days; Hill-Burton days that are utilized to meet an obligation under this program are NOT recognized as free care days. Medicare bad debt days are not allowable as indigent days. Days for accounts written off as bad debt are not allowable as indigent days.

4) If audit of the data submitted for indigent care days results in the hospital not meeting the disproportionate share qualification provisions in the approved state plan or the number of indigent inpatient days are reduced from those originally reported, appropriate action shall be taken to recover such overpayments. No additional payments shall be made if an increase in indigent days is determined.

Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH indigent care payments.

Disproportionate share payments/pool amounts shall be allocated based on consideration of the volume of days in each pool and allowable indigent days or the average cost per day for hospitals in each pool. Disproportionate share payments cumulative for all DSH payments under the pools or any other DSH payment methodology shall not exceed the federal disproportionate share state payment cap for each federal fiscal year.

Disapproval of any one of these payment methodology(ies) by the Health Care Financing Administration does not

invalidate the one remaining methodology.

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 the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

Rose V. Forrest

Secretary

9411#055

DECLARATION OF EMERGENCY

Department of Labor Office of Workers' Compensation

Insurance Cost Containment (LAC 40:I.1106 and 1131)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 23:1178-1179 and R.S. 23:1291, the director of the Office of Workers' Compensation declares that the following rules and regulations are adopted or amended to be effective upon publication in the *Louisiana Register*, and shall continue in effect for a period of 120 days or until the final rule is adopted, whichever occurs first.

The adoption and amendment of these rules is necessary because R.S. 23:1178 and 1179 provides that an employer can earn discounts to be used to reduce the cost of workers' compensation coverage, but the current rules and legislation do not dictate to which period the discount is to apply. Without these changes, insurance companies could be faced with having to retroactively apply a discount that was not earned during the policy period and could even have to refund the discount to businesses no longer insured by that company. The new rules clarify the period to which the discount is to be applied.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 11. Insurance Cost Containment

§1106. Experience Modifier Rates

An employers' eligibility shall be based on its experience modifier rate of December 31 of the prior year.

The incentive discount provided in LSA-R.S. 23:1178(c) shall be based on the employers next effective experience modifier rate after its certified attendance at a cost containment meeting. The Certificate of Attendance as issued by the Louisiana Department of Labor, Office of Workers' Compensation, shall be valid only during the period of the employer's next effective experience modifier rate following its certified attendance at a cost containment meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department

of Labor, Office of Workers' Compensation Administration LR 19:544 (July 1993), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 21:

§1131. Discount Application Period

The incentive discount provided in LSA R.S. 23:1179(B) shall be based on the employer's next effective modifier rate after its certified satisfactory implementation of an approved occupational safety and health program. A certificate shall be issued by the Office of Workers' Compensation evidencing the satisfactory implementation of an occupation safety and health program. Such certificate shall be valid only during the period of the employer's next effective modifier rate after its certified satisfactory implementation of the approved occupational safety and health program.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration LR 21:

Alvin J. Walsh
Director

9411#051

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Office of State Police
Riverboat Gaming Division**

**Operating Standards
(LAC 42:XIII.Chapters 23-45)**

In accordance with R.S. 49:953(B), the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, is exercising the provisions of the Administrative Procedure Act to adopt an emergency rule pertaining to the operating standards of riverboat gaming. This emergency rule becomes effective October 20, 1994 and shall remain in effect for 90 days.

There are currently fifteen riverboats licensed and conducting gaming with many applications for a license pending. The emergency adoption of these rules is necessary to prevent an interruption in the operation of the riverboats which are licensed and operating. These riverboats generate a source of revenue necessary for the operations of the state which benefit the general citizenry of Louisiana.

Currently, millions of dollars are leaving the state of Louisiana and are being spent on the Mississippi gulf coast in the state's riverboat gaming casinos. Additional riverboat casinos are beginning operations along the Mississippi gulf coast at the rate of one per month. A total of approximately 15 riverboat casinos are currently planned for the Mississippi gulf coast approximately 60 miles from New Orleans. As a result, the state of Mississippi is experiencing tremendous economic growth and is collecting gaming revenues and fees that should be staying in Louisiana. In addition, thousands of out-of-state tourists are opting to make areas outside of

Louisiana their travel destination because of the availability of legalized gaming in those jurisdictions.

The division further determines that unless immediate rule action is taken by the division, those companies which are presently willing to invest millions of dollars in Louisiana and provide thousands of jobs to Louisiana residents will decide to invest their resources in other jurisdictions which presently offer riverboat gaming or will have authorized riverboat gaming in the near future.

The division also finds that many state programs which would be or could be providing critical medical, health, social, and educational services to the citizens of Louisiana could be funded by revenues received by the state from implementation of riverboat gaming operations.

Any unnecessary delay in the promulgation of Riverboat Gaming Division enforcement rules will interrupt riverboat gaming operations, thereby postponing the collection of revenue for the state.

As a result of the above findings, the Riverboat Gaming Division hereby adopts an emergency rule, copies of which may be obtained from the Riverboat Gaming Division of the Office of State Police, Box 66614, Baton Rouge, LA 70896-6614 or through the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Paul W. Fontenot
Deputy Secretary

9411#007

DECLARATION OF EMERGENCY

**Department of Revenue and Taxation
Tax Commission**

Ad Valorem Tax (LAC 61:V.Chapters 3-31)

The Louisiana Tax Commission, at its meeting of November 9, 1994, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, amended the real/personal property rules and regulations for use in the 1995 (1996 Orleans Parish) tax year.

This emergency rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 1995. Cost indices required to finalize these assessment tables are not available to this office until late October, 1994. The effective date of this emergency rule is January 1, 1995 and it shall be in effect for 90 days.

The full text of these emergency rules may be viewed at the Louisiana Tax Commission, 5420 Corporate Boulevard, Suite 107, Baton Rouge, LA 70808 or at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Malcolm B. Price, Jr.
Chairman

9411#048

DECLARATION OF EMERGENCY

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

Plan Document—Dentists and Oral Surgeons Exclusion, Exceptions

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 hereby finds that imminent peril to the public health and welfare exists which requires the adoption of the following emergency rule relative to the exclusion of benefits for services rendered by a dentist or oral surgeon 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 until promulgation of the final rule in November, 1994.

The purpose, intent, and effect of this amendment is to provide an additional exception to the general exclusion of benefits for services rendered by a dentist or oral surgeon. This exception to the exclusion will allow the State Employees Group Benefits Program to pay benefits for oral and maxillofacial surgeries performed by a dentist or oral surgeon when such services are shown to the satisfaction of the program to be medically necessary, non-dental, and non-cosmetic procedures.

Effective November 11, 1994, Article 3, Section VIII, Subsection KK of the Plan Document for the State Employees Group Benefits Program, is amended to read as follows:

No benefits are provided under this contract for:

* * *

KK. Services rendered by a dentist or oral surgeon, except for covered dental surgical procedures (Article 3, Section V), dental procedures which fall under the guidelines of Article 3, Section I(F)(15), procedures necessitated as a result of or secondary to cancer, or oral and maxillofacial surgeries which are shown to the satisfaction of the program to be medically necessary, non-dental, non-cosmetic procedures; and

* * *

James R. Plaisance
Executive Director

9411#001

DECLARATION OF EMERGENCY

Department of Treasury Bond Commission

Lines of Credit

The Department of Treasury, Bond Commission has adopted an emergency rule, amending the commission's rule on December 16, 1992 as originally adopted on November 20, 1976.

This emergency rule is necessary to ensure continued construction and funding of all projects heretofore begun and contained in Priority 1 of the current Capital Outlay Act, Act 645 of the 1993 Regular Session of the Louisiana Legislature.

This emergency rule is effective October 20, 1994 and will remain in effect until February 16, 1995 or delivery of the next issue of state of Louisiana general obligation bonds, whichever occurs first, at which time the maximum amount of lines of credit which may be authorized shall be \$100,000,000.

The commission amended Rule No. 15 of the original commission rules and increased the maximum amount of authorized lines of credit as follows:

15. Line of Credit. A line of credit is an authorization to a state agency to proceed with a project and draw from the State Treasury funds for the project. The maximum amount of lines of credit which may be authorized by the commission shall be \$200,000,000. Bonds shall be issued to replenish lines of credit granted in the fiscal year in which the line of credit was granted. No lines of credit may be granted for a project unless and until either the bonds have been sold or lines of credit have been granted for all projects of higher priority as stated in the comprehensive capital outlay budget adopted by the Legislature. The maximum amount of lines of credit provided herein shall not apply in cases where the commission shall deem an item to be an emergency matter. The maximum amount of the lines of credit provided herein shall be effective until February 16, 1995 or delivery of the next issue of state of Louisiana general obligation bonds, whichever occurs first, at which time the maximum amount of lines of credit which may be authorized shall be \$100,000,000.

Monies advanced on a line of credit for any project shall be spent only in accordance with the description in the bond authorization act authorizing bonds to be issued for that project. Prior to the execution of any contract or agreement obligating the expenditure of monies received by any State department or agency or any other entity from line of credit funds, the Attorney General's Office shall be requested to review such proposed contracts or agreements for the sole purpose of determining whether expenditure of funds thereunder by the Legislature. If given, such prior approval by the Attorney General's Office shall be in writing to the appropriate state department, agency or other entity with a copy to be furnished to the State Bond Commission.

Should the Attorney General's Office determine that the proposed expenditure of line of credit funds not be in order,

no such funds may be used to pay obligations which may be incurred if such contracts are excluded after an adverse conclusion by the Attorney General's Office.

All approvals of lines of credit shall be conditioned on compliance by the state department, agency, or other entity with the aforementioned procedure, and it shall be their duty to request approval from the Attorney General's Office, stating to which bond act and to which project the contract or procedure by any such department, agency or other entity shall result in the immediate revocation of the line of credit, and all information regarding the possible expenditure of line of credit funds for other than authorized purposes shall be forwarded immediately by the State Bond Commission to the Attorney General's Office.

Rae W. Logan
Director

9411#004

RULES

RULE

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Seed Commission

Seed Certification Standards (LAC 7:XIII.8725)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry has amended LAC 7:XIII.8725.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 87. Seed Certification Standards

§8725. General Requirements for Certification

A. The crop or variety to be certified must have been approved for certification by the Louisiana Department of Agriculture and Forestry. Also, the originator, developer, owner or agent shall provide the following to the Department of Agriculture and Forestry:

* * *

K. The grower must maintain complete records accounting for all production and final disposition of all certified seeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 20:642 (June 1994), LR 20: (November 1994).

Bob Odom
Commissioner

9411#038

RULE

Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board

Equine Infectious Anemia Testing
(LAC 7:XXI.11765)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of horses, notice is hereby given that the Louisiana Livestock Sanitary Board advertises its intent to amend the regulations concerning diseases of horses.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter C. Horses, Mules and Asses

§11765. Equine Infectious Anemia and Livestock Auction Market Requirements

* * *

B. Equine Required to be Tested

1. - 2 ...

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

* * *

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

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1985), amended LR 11:615 (June 1985), LR 14:223 (April 1988), amended LR 14:697 (October 1988), LR 20:406 (April 1994), LR 20: (November 1994).

Bob Odom
Commissioner

9411#025

RULE

**Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

**Livestock Fairs, Shows, Sales and Rodeos
(LAC 7:XXI.11775)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of swine, the Louisiana Sanitary Board amends the regulations concerning swine.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter E. Swine

§11775. Admittance of Livestock to Fairs, Livestock Shows, Breeders' Association Sales and Rodeos

*** * ***

C. Swine Brucellosis. All breeding age swine moving within the state to fairs, livestock shows, or breeders' association sales must show an official negative card test for brucellosis within 60 days prior to arrival at the fairgrounds or livestock show grounds, and within 30 days prior to arrival at breeders' association sale grounds. Swine moving to shows within the state that were purchased from validated or monitored herds are exempt from this testing requirement. Proof of purchase and validated/monitored herd numbers of the swine herd will be required.

D. Pseudorabies Requirements. All swine moving within the state to fairs, livestock shows, or breeders' association sales must show an official test for pseudorabies within 60 days prior to arrival at the fairgrounds or livestock show grounds, and within 30 days prior to arrival at breeders' association sale grounds. Swine moving to shows within the state that were purchased from qualified or monitored herds are exempt from this testing requirement. Proof of purchase and qualified/monitored herd numbers of the swine herd will be required.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 16:392 (May 1990), LR 20: (November 1994).

**Bob Odom
Commissioner**

9411#026

RULE

**Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

**Quarantining, Vaccinating and Testing of Swine
for Brucellosis/Pseudorabies
(LAC 7:XXI.11776)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of swine, notice is hereby given that the Louisiana Sanitary Board amends the regulations concerning swine.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter E. Swine

§11776. Quarantining, Vaccinating and Testing of Swine for Brucellosis/Pseudorabies

*** * ***

B. To be eligible for release from quarantine, a swine herd must meet the following requirements.

1. All swine positive to an official pseudorabies test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws within 15 days; all swine, over six months of age and a random sampling of any growing/finishing swine which remain in the herd, must be tested negative 30 days or more after removal of reactors. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. Whole Herd Depopulation. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

C.1. All swine positive to an official brucellosis test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises by disposal means authorized by applicable state laws within 15 days. All swine over six months of age which remain in the herd, must be tested according to an "approved" herd plan. A herd may be released from quarantine upon completion of three negative complete herd tests(CHT). The first test must be completed at least 30 days after removal of the last reactor. A second CHT must be conducted 60-90 days following the first CHT. A third CHT is required 60-90 days

following the second CHT. A fourth CHT is required six months after the third CHT.

2. Whole Herd Depopulation. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

* * *

E. All exposed swine moving from quarantined premises in interstate or intrastate commerce, must move directly to a recognized slaughter establishment or to an approved swine quarantined feedlot or rendering plant.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 16:392 (May 1990), amended LR 18:839 (August 1992), LR 20: (November 1994).

Bob Odom
Commissioner

9411#027

RULE

Department of Economic Development Board of Architectural Examiners

Limited Liability Companies (LAC 46:I.1101)

(Editor's Note: A portion of the rules which appeared on pages 994 through 997 of the September 20, 1994 *Louisiana Register*, is being republished to include information which was inadvertently omitted.)

TITLE 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

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 individual architects currently licensed a renewal form. An individual architect who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The license renewal fee for an individual architect domiciled in Louisiana shall be \$50; the license registration fee for an individual domiciled outside Louisiana shall be \$100. 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. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$100. The delinquent fee shall be in addition to the renewal fee set forth in the preceding Subsection C.

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), LR 10:737 (October 1984), amended by Department of Economic Development, Board of Architectural Examiners, LR 15:7332 (September 1989), LR 20:995 (September 1994), repromulgated LR 20: (November 1994).

Mary "Teeny" Simmons
Executive Director

9411#037

RULE

Board of Elementary and Secondary Education

Bulletin 741—Health Education

In accordance with the Louisiana Revised Statutes 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education amended the BESE Honors Curriculum in Bulletin 741 and related changes regarding health education requirement for high school graduation, effective for 1994-95 incoming freshmen, and printed below.

Bulletin 741, page 76 - BESE Honors Curriculum

* * *

Physical Education	1½ units
Health Education	½ unit

* * *

(All other requirements remain the same.)

Bulletin 741, page 84

Health Education

2.105.13A minimum of 90 hours of health instruction shall be taught.

Procedural Block. Cardiopulmonary Resuscitation (CPR) shall be taught.

AUTHORITY NOTE: R.S. 17:6(A),(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 20: (November 1994).

These changes are necessary in order to bring Bulletin 741 standards in line with the previous adoption of the ½ unit Health Education requirement. Two standards are affected with the changes. One standard adds the health education requirement to the honors curriculum while the second change in standards clarifies that a minimum of 90 hours of health instruction shall be taught.

Carole Wallin
Executive Director

9411#022

RULE

Board of Elementary and Secondary Education

Bulletin 741—Instructional Time

The Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R. S. 49:950 et seq., and amended to Bulletin 741, Louisiana Handbook for School Administrators to add Standard 1.009.17 and amended the definition of instructional time as stated below. Effective date for implementation of this amendment is the 1995-96 school year.

Standard 1.009.17

The minimum required instructional day shall consist of 330 minutes (six period day) or 350 minutes (seven period day) and shall include the scheduled time within the regular

school day devoted to teaching courses outlined in the program of studies and identified in the SBESE approved parish pupil progression plan.

For elementary schools, local school systems may include as instructional time in their adopted school calendar a maximum of four regular school days for formal, school-wide parent/teacher conferences for the purpose of assessing the students' progress or the students' programs of study and/or staff development.

For middle and secondary schools, local school systems may include as instructional time in their adopted school calendar a maximum of four regular school days for formal, school-wide parent/teacher conferences for the purpose of assessing the students' progress or the students' programs of study, and/or semester or grading period testing and the evaluation of students, and/or staff development.

For both elementary and secondary parent/teacher conferences, all parents must be formally notified and their participation in the conferences must be sought.

Add as a procedural block under Standards 2.037.12 and 2.037.13:

"Refer to standard 1.009.17 for instructional days requirements."

Instructional time: shall include not only the scheduled time within the regular school day devoted to teaching courses outlined in the program of studies and identified in the SBESE approved parish pupil progression plan but also staff development, school-wide parent/teacher conferences for the purpose of assessing the students' progress or the students' programs of study, and/or semester or grading period testing and the evaluation of students in accordance with policy number 1.009.17.

AUTHORITY NOTE: 17.7

HISTORICAL NOTE: LR 20: (November 1994).

Carole Wallin
Executive Director

9408#072

RULE

Board of Elementary and Secondary Education

Bulletin 921—Education Majors Program

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended guidelines for the Education Majors Scholarship Program. Regulations for the Education Majors Scholarship Program are incorporated into Bulletin 921, 8(g) Policy and Procedure Manual and referenced in the Administrative Code, Title 28 as noted below:

Title 28

EDUCATION

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

§921. Quality Education Support Fund (8g)

A. Bulletin 921: Policy Manual

* * *

E. Education Majors Program

This program will provide scholarships to academically talented students who will obtain a bachelor's degree in education which will qualify them to become certified classroom teachers. Regulations for the program are incorporated into Bulletin 921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3042.1

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 20: (November 1994).

The Guidelines for the Education Majors Scholarship Program, FY 94-95 may be seen in their entirety in the Office of the State Register, 1051 North Third Street, Suite 512, Capitol Annex, Baton Rouge, LA 70802; in the office of Continuing Education, State Department of Education, Baton Rouge; or in the office of the State Board of Elementary and Secondary Education located in the Education Building.

Carole Wallin
Executive Director

9411#018

RULE

Board of Elementary and Secondary Education

Bulletin 1452—Handbook for Supervisors of Child Welfare and Attendance and School Social Workers (LAC 28:1.901)

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq., and amended Bulletin 1452, The Handbook for Supervisors of Child Welfare and Attendance and School Social Workers. Bulletin 1452 will be referenced in the Louisiana Administrative Code, Title 28 as noted below:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§901. School Approval Standards and Regulations**

* * *

K. Bulletin 1452

1. Bulletin 1452, Revised 1993, The Handbook for Supervisors of Child Welfare and Attendance and School Social Workers is adopted.

2. This bulletin contains the standard operation procedures for child welfare and attendance supervisors, related Louisiana statutes affecting compulsory school attendance and discipline of students, related court cases and decisions, opinions of the attorney general and departmental attorneys regarding school attendance and discipline, BESE policies, guidelines for the home study program, implementation of the Exceptional Children's Act, and other related documents. The handbook is a compilation of the policies and regulations to which the supervisors of child welfare and attendance and school social workers must adhere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 20: (November 1994).

The complete bulletin may be seen in the Office of the State Register located on the Fifth Floor of the Capitol Annex; in the Bureau of Students Services in the 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.

Carole Wallin
Executive Director

9411#021

RULE

Board of Elementary and Secondary Education

Bulletin 1822—Competency Based Postsecondary Curriculum Guides

In accordance with the Louisiana Revised Statutes 49:950 et seq., The Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education amended Bulletin 1822, Competency Based Postsecondary Curriculum Guides, which changed the title and length of the courses listed below:

Revisions:

Course Title	Length
Residential Air Conditioning	1872 Hrs., 18 mos., 6 qtrs.
Domestic Refrigeration	1248 Hrs., 12 mos., 4 qtrs.
Band & Circular Saw Filing	1872 Hrs., 18 mos., 6 qtrs.
Barber-Styling	1500 Hrs., 15 mos., 5 qtrs.
Cosmetology	1500 Hrs., 15 mos., 5 qtrs.
Dietary Manager	1560 Hrs., 15 mos., 5 qtrs.
Forest Technology	1872 Hrs., 18 mos., 6 qtrs.
Horticulture	1560 Hrs., 15 mos., 5 qtrs.
Industrial Maintenance Technician	2496 Hrs., 24 mos.
Nondestructive Testing	1248 Hrs., 12 mos., 4 qtrs.
Respiratory Care Technician	1872 Hrs., 18 mos., 6 qtrs.
Television Production	1872 Hrs., 18 mos., 6 qtrs.

Outlines Only

Outline Title	Length
Agricultural Mechanics	1560 Hrs., 15 mos., 5 qtrs.
Electromechanical Technology	2496 Hrs., 24 mos., 8 qtrs.
Fitter-Fabricator	624 Hrs., 6 mos.
Heavy Equipment Mechanic	1248 Hrs., 12 mos., 4 qtrs.
Heavy Equipment Operator	624 Hrs., 6 mos., 2 qtrs.
Office Equipment Repair	2184 Hrs., 21 mos., 7 qtrs.
Pipefitting	1248 Hrs., 12 mos., 4 qtrs.
Power Line Technician	1248 Hrs., 12 mos., 4 qtrs.
Homemaker's Aide	624 Hrs., 6 mos., 2 qtrs.

AUTHORITY NOTE: R. S. 17:6(A),(10), R. S. 17:7
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 20: (November 1994).

Carole Wallin
Executive Director

9411#020

RULE

Board of Elementary and Secondary Education

**Migrant Education State Plan—FY 1995
(LAC 28:I.933)**

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq. and adopted the Migrant Education State Plan, FY-95. The Migrant Education FY-95 State Plan is a description of the Louisiana program for delivery of instructional and support services to children of migratory agricultural and fishing workers. It includes definitions of eligibility, scheme for identification and recruitment, instructional objectives, criteria for personnel, data requirements, parental involvement, requirements, provisions for health, nutrition, and other support services, and plan for evaluation and reporting.

This is also an amendment to the Administrative Code, Title 28 as noted below:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§933. Migrant Education State Plan**

A. The Migrant Education State Plan, FY-95 is adopted, as revised.

AUTHORITY NOTE: P.L. 100-297
HISTORICAL NOTE: LR 20: (November 1994).

Complete text of this plan may be viewed in its entirety at the Office of the State Register, Capitol Annex, 1050 North Third Street, Room 512, Baton Rouge, LA 70802, at the Bureau of Migrant Education, State Department of Education, and in the office of the State Board of Elementary and Secondary Education located in the Education Building, Baton Rouge, LA.

Carole Wallin
Executive Director

9411#019

RULE

Board of Elementary and Secondary Education

Teacher Tuition Exemption (LAC 28:I.921)

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq. and repealed the current regulations for the tuition exemption program for teachers (FY 93-94), since the board is no longer funding the teacher tuition exemption program which was established by R.S. 17:7.3. Two new professional development programs will be funded with the 8(g) funds previously allocated to the tuition exemption program.

This action is an amendment to the Administrative Code, Title 28 as noted below:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§921. Quality Education Support Fund 8(g)**

B. Teacher Tuition Exemption Program, FY 93-94
Repealed.

AUTHORITY NOTE: R.S. 17:7.3
HISTORICAL NOTE: Repealed by the Board of Elementary and Secondary Education, LR 20: (November 1994).

Carole Wallin
Executive Director

9411#017

RULE

Board of Elementary and Secondary Education

Waivers of Minimum Standards (LAC 28:I.313)

The Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq., and adopted a revision to LAC 28:I.313 as stated below:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 3. Rules of Procedure
§313. Waivers of Minimum Standards: Procedures**

D. Administrative Waivers of Certification Standards

4. Waivers of Practicum and Student Teaching Requirements When all Coursework is Completed

a. Appeal Requested and Guidelines

i. Waiver of practicum requirements: Practicum requirements, with the exception of the tests and measurements practicum, may be waived with three years of experience in the appropriate area if all other coursework is completed; or a temporary certificate may be issued if all academic requirements have been met. This will allow the teacher to continue his/her present position while gaining the necessary experience to apply for the waiver.

ii. Waiver of student teaching when a state approved program is completed: Student teaching may be waived when the applicant has had three years of experience. This will be granted only if all coursework has been completed.

AUTHORITY NOTE: R. S. 17:6(A); (10); R. S. 17:7
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 20: (November 1994).

Carole Wallin
Executive Director

9411#023

RULE

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

**Clean Fuel Fleet Program and Fees
(LAC 33:III.223 and 1951-1973) (AQ80)**

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 has amended the Air Quality Division regulations, LAC 33:III.Chapter 19 (AQ80).

The federal CAAA (Clean Air Act Amendments) of 1990 require implementation of a Clean Fuel Fleet Program in ozone nonattainment areas classified serious and above. In Louisiana this encompasses Ascension, East Baton Rouge, Iberville, Livingston, Point Coupee, and West Baton Rouge parishes. The CAAA require any fleet operator who operates in this area 10 or more vehicles which are centrally fueled or capable of being centrally fueled, to comply with the requirements of the Clean Fuel Fleet Program. The program phases in over a three-year period. In 1998, 30 percent of a covered fleet operator's new vehicle purchases must operate on an alternative fuel; by 1999, 50 persons; by 2000, 70 percent.

**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 + vehicles	300 500 750 1,000

Explanatory Notes for Fee Schedule

* * *

[See Prior Text Notes 1 through 16]

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 19:1419 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20: (November 1994).

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 ozone nonattainment areas designated serious or above. The Baton Rouge ozone nonattainment area is designated as serious and 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: (November 1994).

§1953. General Provisions

A. Applicability. Any person who operates a fleet of 10 or more vehicles not exempted in LAC 33:III.1957 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 (LDVs) and Light-duty Trucks (LDTs) with a gross vehicle weight rating (GVWR) of 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. CFV Purchase Requirements

1. 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.

2. HDVs—50 percent of new covered vehicle purchases/acquisitions in MY 1998 and 50 percent every MY thereafter.

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.

3. The following information shall be submitted when registering: total number of vehicles in fleet, vehicle make, vehicle model, vehicle year, vehicle identification number

(VIN), license plate number, vehicle odometer reading, and vehicle GVWR.

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: (November 1994).

§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 at 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), inherently-low-emission vehicle (ILEV), 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 clean alternative 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 CFVs. *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 not exempted in LAC 33:III.1957 in vehicle classes for which this rule is applicable and which are operated by a single person; operated in the covered area, even if the fleet is garaged outside the covered area; and 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 8,501 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 (LDV)/Light-duty Truck (LDT)—a motor vehicle with a GVWR of 8,500 pounds or less.

Loaded Vehicle Weight—the curb weight plus 300 pounds.

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 same 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 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.

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.

Test Weight (TW)—the average of the curb weight and the GVWR.

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 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 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: (November 1994).

§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 fewer 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: (November 1994).

§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, 105-94, and 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: (November 1994).

§1961. Credits Program

Operators of covered fleets that are registered in the covered area and eligible noncovered fleets upon registering with the department, may 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. Eligible noncovered fleets may participate in the credits program upon registering with the department.

A. Requirements

1. A fleet must be registered with the administrative authority in accordance with the rules 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 generate credits must be operated, while in the covered area, on the fuel(s) for which it was certified as a CFV.

B. Credit Generation. Operators of eligible fleets may generate credit by:

1. acquiring CFVs and/or converting vehicles to CFVs prior to model year 1998 but after EPA approval of the SIP;

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

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

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

5. ILEVs will be treated same as LEVs.

C. Credit Usage. Operators of eligible fleets, in lieu of acquiring and/or converting vehicles to 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 may be held for use, traded, and/or sold 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 date of EPA approval but prior to September 1, 1998, 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 LDVs and HDVs (including heavy-duty subclasses) are required to be banked, identified, and tracked separately.

2. Trading, Purchasing, and Selling 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 noncovered 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 LDV and HDV 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. Credit 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 ≤6000 lbs GVWR ≤3750 lbs LVW	LDT ≤6000 lbs GVWR ≤3750 lbs LVW	LDT ≤6000 lbs GVWR >3750 lbs LVW ≤5750 lbs LVW	LDT >6000 lbs GVWR ≤3750 lbs TW	LDT >6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	LDT >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 ≤6000 lbs GVWR ≤3750 lbs LVW	LDT ≤6000 lbs GVWR ≤3750 lbs LVW	LDT ≤6000 lbs GVWR >3750 lbs LVW ≤5750 lbs LVW	LDT >6000 lbs GVWR ≤3750 lbs TW	LDT >6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	LDT >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 ≤6000 lbs GVWR ≤3750 lbs LVW	LDT ≤6000 lbs GVWR ≤3750 lbs LVW	LDT ≤6000 lbs GVWR >3750 lbs LVW ≤5750 lbs LVW	LDT >6000 lbs GVWR ≤3750 lbs TW	LDT >6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	LDT >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	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/converted;
2. CFVs required;
3. each transaction by item number and date;
4. acquired credits and/or sold credits;
5. beginning and ending credit balances; and
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 who 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. annual report;
2. total number of vehicles (covered and exempt);
3. VIN, license plate number, type (LDV/HDV), and fuel type of each vehicle; and
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: (November 1994).

§1967. Conversions to Clean-fuel 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: (November 1994).

§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 for 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: (November 1994).

§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: (November 1994).

James B. Thompson, III
Assistant Secretary

9411#042

RULE

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

Conformity of Federal Actions to SIPs (LAC 33:III.Chapter 14) (AQ95)

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 has amended the Air Quality Division Regulations, LAC 33:III.Chapter 14, (AQ95), and that the Office of Air Quality and Radiation Protection submitted a revision to the State Implementation Plan (SIP) which incorporates the rule.

This rule and SIP revision establish the criteria and procedures governing the determination of conformity for all federal actions, except federal highway and transit actions. The rule and SIP revision ensure that federal actions conform to the appropriate State Implementation Plan's (SIP's) purposes of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of such standards. This action is required by the USEPA federal regulation 40 CFR Part 51, Subpart W.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 14. Conformity

Subchapter A. Determining Conformity of General Federal Actions to State or Federal Implementation Plans

§1401. Purpose

The purpose of this Subchapter is to implement 40 CFR part 51, subpart W to fulfill requirements of section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.),

with respect to the conformity of general federal actions to the applicable state implementation plan(s) (SIPs). This rule sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such actions to the applicable SIPs.

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: (November 1994).

§1402. Scope

The conformity provisions of this Subchapter shall apply in all criteria pollutant nonattainment and maintenance areas and shall apply to all federal action as defined and required in this Subchapter.

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: (November 1994).

§1403. Prohibition

A. No department, agency, or instrumentality of the federal government shall engage in, support in any way, provide financial assistance for, license, permit, or approve any activity which does not conform to an applicable implementation plan.

B. A federal agency must make a determination that a federal action conforms to the applicable implementation plan in accordance with the requirements of this Subchapter before the action is taken.

C. Subsection B of this Section does not include federal actions where conditions in either Subsection C.1 or 2 of this Section are met:

1. a National Environmental Policy Act (NEPA) analysis was completed as evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or finding of no significant impact (FONSI) that was prepared prior to January 31, 1994; or

2. prior to January 31, 1994, an EA was commenced or a contract was awarded to develop the specific environmental analysis; sufficient environmental analysis is completed by March 15, 1994, so that the federal agency may determine that the federal action is in conformity with the specific requirements and the purposes of the applicable SIP in accordance with the federal agency's affirmative obligation under Section 176(c) of the CAA; and a written determination of conformity under Section 176(c) of the CAA has been made as of March 15, 1994 by the federal agency responsible for the federal action.

D. Notwithstanding any provision of this Subchapter, a determination that an action is exempt, is in conformance, or is presumed to conform with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the NEPA, the CAA, or any facility reporting, testing, monitoring, permitting, and fee requirements of LAC 33:III.

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: (November 1994).

§1404. Definitions

Terms used, but not defined in this part, shall have the meaning given them by the CAA and LAC 33:III, in that order of priority.

Affected Federal Land Manager—the federal agency or the federal official charged with direct responsibility for management of an area designated as Class I under 42 U.S.C. 7472 of the CAA that is located within 100 km of the proposed federal action.

Applicable Implementation Plan or Applicable SIP—the portion(s) of the Louisiana SIP or most recent revision thereof, which has been approved under section 110 of the CAA, or promulgated under section 110(c) of the CAA (federal implementation plan), or promulgated or approved pursuant to regulations promulgated under section 301(d) of the CAA and which implements the relevant requirements of the CAA.

Areawide Air Quality Modeling Analysis—an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air quality dispersion model to determine the effects of emissions on air quality.

Cause or Contribute to a New Violation—a federal action that:

a. causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the federal action were not taken; or

b. contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

Caused By (as used in the terms "direct emissions" and "indirect emissions")—emissions that would not otherwise occur in the absence of the federal action.

CAA—Clean Air Act as amended, 1990.

Criteria Pollutant or Standard—any pollutant for which there is established a NAAQS at 40 CFR part 50.

Department—the Air Quality Division, Office of Air Quality and Radiation Protection, of the Department of Environmental Quality.

Direct Emissions—those emissions of a criteria pollutant or its precursors that are caused or initiated by the federal action and occur at the same time and place as the action.

Emergency—a situation where extremely quick action on the part of the federal agencies involved is needed to respond to a crisis and where the timing of such federal activities makes it impractical to meet the requirements of this rule, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts, and military mobilizations.

Emissions Budgets—those portions of the total allowable emissions defined in the applicable implementation plan for a certain period for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance, for any criteria pollutant or its precursors, allocated by the applicable implementation plan to mobile sources, stationary sources, area sources, or any class source

or subcategory source established within those projected emissions inventories.

Emission Offsets—measures which reduce emissions and are quantifiable, consistent with the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other applicable SIP provisions, enforceable under both state and federal law, and permanent within the time frame specified by the applicable SIP.

Emissions that a Federal Agency has a Continuing Program Responsibility For—emissions that are specifically caused by an agency carrying out its authorities, but does not include emissions that occur due to subsequent activities, unless such activities are required by the federal agency; and where an agency, in performing its normal program responsibilities, takes actions itself or imposes conditions that result in air pollutant emissions by a nonfederal entity taking subsequent actions.

Facility—all emission points, and fugitive, area, and mobile emission sources under common control on contiguous property.

Federal Action—any activity engaged in by a department, agency, or instrumentality of the federal government, or any activity that a department, agency, or instrumentality of the federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.). Where the federal action is a permit, license, or other approval for some aspect of a nonfederal undertaking, the relevant activity is the part, portion, or phase of the nonfederal undertaking that requires the federal permit, license, or approval.

Federal Agency—a federal department, agency, or instrumentality of the federal government.

Increase the Frequency or Severity of any Existing Violation of any Standard in any Area—to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

Indirect Emissions—those emissions of a criteria pollutant or its precursors that:

a. are caused by the federal action, but may occur later in time and/or may be farther removed in distance from the action itself, but are still reasonably foreseeable; and

b. the federal agency can practicably control and will maintain control over due to a continuing program responsibility of the federal agency, including:

i. on-site traffic activity and traffic to and from a proposed facility which is related to increases or other changes in the scale or timing of operations of such facility;

ii. emissions related to the activities of employees of contractors or federal employees;

iii. emissions offsets related to employee commutation and similar programs to increase average vehicle occupancy imposed on all employers of a certain size in the locality;

iv. emissions related to the use of federal facilities under lease or temporary permit; and

v. emissions related to the activities of contractors or leaseholders that may be addressed by provisions that are usual and customary for contracts or leases or are within the scope of contractual protection of the interests of the United States.

Local Air Quality Modeling Analysis—an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area (including, for example, congested roadway intersections and highways or transit terminals) which uses an air quality dispersion model to determine the effects of emissions on air quality.

Maintenance Area—an area with a maintenance plan approved under section 175A of the CAA.

Maintenance Plan—a revision to the applicable SIP which meets the requirements of section 175A of the CAA.

Metropolitan Planning Organization (MPO)—that organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607.

Milestone—an emissions level and the date on which it is required to be achieved under sections 182(g)(1) and 189(c)(1) of the CAA.

National Ambient Air Quality Standards (NAAQS)—those standards established pursuant to section 109 of the CAA, including standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone, particulate matter (PM₁₀), and sulfur dioxide (SO₂).

NEPA—the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

Nonattainment Area (NAA)—a geographic area of the United States designated as nonattainment under section 107 of the CAA and described in 40 CFR part 81.

Precursors of a Criteria Pollutant—

a. for ozone: nitrogen oxides (NO_x), unless an area is exempted from NO_x requirements under section 182(f) of the CAA, and volatile organic compounds (VOC); and

b. for PM₁₀: those pollutants described in the PM₁₀ nonattainment area applicable SIP as significant contributors to the PM₁₀ levels.

Reasonably Foreseeable Emissions—projected future indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known to the extent that the impact of such emissions can be determined; and the emissions are quantifiable, as described and documented by the federal agency based on its own information and after reviewing any information presented to the federal agency.

Regional Water and/or Wastewater Project—includes construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.

Regionally Significant Action—a federal action for which the direct and indirect emissions of any pollutant represent 10 percent or more of a nonattainment or maintenance area's emissions inventory for that pollutant.

Total of Direct and Indirect Emissions—the sum of direct and indirect emissions increases and decreases of criteria pollutant and precursor caused by federal action, inclusive of all emissions known or reasonably foreseeable at the time the emissions level is calculated (i.e., the net emissions considering all direct and indirect emissions). Emissions which are exempt or presumed to conform under LAC 33:III.1405.C, D, E, or F, except as provided in LAC 33:III.1405.J, are not subject to the requirements of LAC 33:III.1410 and are not included in the net emissions from federal action which must be determined in conformity with the applicable SIP emissions budget. Segmentation of projects for determining emissions for presumed to conform actions, and for conformity analyses is not permitted.

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: (November 1994).

§1405. Applicability

A. Conformity determinations for federal actions related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of LAC 33:III. Chapter 14, Subchapter B, in lieu of the procedures set forth in this Subchapter.

B. For federal actions not covered by Subsection A of this Section, a conformity determination under this Subchapter is required for each criteria pollutant where the total of direct and indirect emissions in a nonattainment or maintenance area caused by a federal action would equal or exceed any of the rates in Subsection B.1 or 2 of this Section. Emissions from federal actions must be determined using methods described in this Subchapter or, notwithstanding other requirements of this Subchapter, using methods approved by the administrative authority, such as the application of applicable emissions inventory summaries to quantifiable actions.

1. The following rates apply in nonattainment areas (NAAs):

CRITERIA POLLUTANTS	TONS/YEAR
Ozone (VOCs or NO _x)	
Serious NAAs	50
Severe NAAs	25
Extreme NAAs	10
Other ozone NAAs outside an ozone transport region	100
Marginal and moderate NAAs inside an ozone transport region	
VOC	50
NO _x	100
Carbon Monoxide	
All NAAs	100
SO ₂ or NO ₂	
All NAAs	100
PM ₁₀	
Moderate NAAs	100
Serious NAAs	70
Pb	
All NAAs	25

2. The following rates apply in maintenance areas:

CRITERIA POLLUTANTS	TONS/YEAR
Ozone (NO _x), SO ₂ or NO ₂	
All Maintenance Areas	100
Ozone (VOCs)	
Maintenance areas inside an ozone transport region	50
Maintenance areas outside an ozone transport region	100
Carbon Monoxide	
All maintenance areas	100
PM ₁₀	
All maintenance areas	100
Pb	
All maintenance areas	25

C. The requirements of this Subchapter shall not apply to:

1. actions where the total of direct and indirect emissions are below the emissions levels specified in Subsection B of this Section;
2. the following actions which would result in no emissions increase or an increase in emissions that is clearly de minimis:
 - a. judicial and legislative proceedings;
 - b. continuing and recurring activities, such as permit renewals, where activities conducted will be similar in scope and operation to activities currently being conducted;
 - c. rulemaking and policy development and issuance;
 - d. routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities;
 - e. civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel;
 - f. administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties, and fees;
 - g. routine, recurring transportation of material and personnel;
 - h. routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups and/or for repair or overhaul;
 - i. maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site;
 - j. actions, with respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands, such as the following examples: relocation of personnel; disposition of federally-owned existing structures, properties, facilities, and lands; rent subsidies, operation and maintenance cost subsidies; the exercise of receivership or conservatorship authority; and assistance in purchasing structures;
 - k. granting of leases, licenses such as for exports and trade, permits, and easements where activities conducted will be similar in scope and operation to activities currently being conducted;
 - l. planning, studies, and provision of technical assistance;
 - m. routine operation of facilities, mobile assets, and equipment;
 - n. transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer;
 - o. designation of empowerment zones, enterprise communities, or viticultural areas;
 - p. actions by any of the federal banking agencies or the federal reserve banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding

companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency, or instrumentality of the United States;

q. actions by the Board of Governors of the federal reserve system or any federal reserve bank to effect monetary or exchange rate policy;

r. actions that implement a foreign affairs function of the United States;

s. actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and where the federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

t. transfers of real property, including land, facilities, and related personal property from a federal entity to another federal entity and assignments of real property, including land, facilities, and related personal property from a federal entity to another federal entity for subsequent deeding to eligible applicants; and

u. actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States;

3. the following actions where the emissions are not reasonably foreseeable:

a. initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level; and

b. electric power marketing activities that involve the acquisition, sale, and transmission of electric energy; and

4. individual actions which implement a decision to conduct or carry out a program that has been found to conform to the applicable implementation plan, such as prescribed burning actions which are consistent with a conforming land management plan that has been found to conform to the applicable implementation plan.

D. Notwithstanding the other requirements of this Subchapter, a conformity determination is not required for the following federal actions (or portion thereof):

1. the portion of an action that includes major new or modified stationary sources that require a permit under the new source review (NSR) program (section 173 of the CAA) or the prevention of significant deterioration (PSD) program (title I, part C of the CAA);

2. actions in response to emergencies or natural disasters such as hurricanes, earthquakes, etc., which are commenced on the order of hours or days after the emergency or disaster and, if applicable, which meet the requirements of Subsection E of this Section;

3. research, investigations, studies, demonstrations, or training where no environmental detriment is incurred and/or the particular action furthers air quality research, as determined by the department primarily responsible for the applicable SIP;

4. alteration and additions of existing structures as

specifically required by new or existing applicable environmental legislation or environmental regulations (e.g., hush houses for aircraft engines and scrubbers for air emissions); and

5. direct emissions from remedial and removal actions carried out under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other environmental regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.

E. Federal actions which are part of a continuing response to an emergency or disaster under Subsection D.2 of this Section and which are to be taken more than six months after the commencement of the response to the emergency or disaster under Subsection D.2 of this Section are exempt from the requirements of this Subchapter only if:

1. the federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional six months, it is impractical to prepare the conformity analyses which would otherwise be required and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests, and foreign policy commitments; or

2. for actions which are to be taken after those actions covered by Subsection E.1 of this Section, the federal agency makes a new determination as provided in Subsection E.1 of this Section.

F. Notwithstanding other requirements of this Subchapter, actions specified by individual federal agencies that have met the criteria set forth in either Subsection G.1, 2, or 3 of this Section and when the procedures set forth in Subsection H of this Section have been met are presumed to conform, except as provided in Subsection J of this Section.

G. The federal agency must meet the criteria for establishing classes of action that are presumed to conform by fulfilling the requirements set forth in either Subsection G.1 or 2 of this Section. Federal agencies, in accordance with Subsection G.1 or 2 of this Section, may establish classes of action as presumed to conform and not subject to the requirements of LAC 33:III.1410; and may in accordance with Subsection G.3 of this Section, specify future individual actions as presumed to conform when the individual actions are similar in design and scope to the type of activity upon which the class of action was established.

1. The federal agency must demonstrate, using methods consistent with these regulations that the total of direct and indirect emissions from the class of action which would be presumed to conform would not:

a. cause or contribute to any new violation of any standard in any area;

b. interfere with provisions in the applicable SIP for maintenance of any standard;

c. increase the frequency or severity of any existing violation of any standard in any area; or

d. delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified

in the applicable SIP for purposes of:

- i. a demonstration of reasonable further progress;
- ii. a demonstration of attainment; or
- iii. a maintenance plan.

2. The federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emission rates for a conformity determination that are established in Subsection B of this Section based, for example, on actions similar in design and scope taken over recent years.

3. Future individual actions which are specified by an individual federal agency as presumed to conform based on that action being similar in design and scope to a presumed to conform class of action established in accordance with Subsection G.1 or 2 of this Section are subject to the requirements of Subsection H and J of this Section, and must operate at or below the emissions levels established in the associated class of action presumed to conform.

H. In addition to meeting the criteria for establishing presumed to conform actions set forth in Subsection G.1, 2 or 3 of this Section, the following procedures must also be complied with to presume that actions will conform:

1. the federal agency must identify, through publication in the *Federal Register*, its list of proposed actions that are presumed to conform and the analyses, assumptions, emission factors, and criteria used as the basis for the presumptions;

2. the federal agency must give direct notice of proposed presumed to conform actions and the basis for the presumptions to the EPA Region 6 Office, the department, local air quality agencies and, where applicable, the MPO; and provide at least 30 days prior to publishing the final list of such actions for the agencies notified and the public to comment on the list of proposed actions presumed to conform;

3. the federal agency must document its response to all the comments received and make the comments, response, and final list of actions available to the public upon request; and

4. the federal agency must publish the final list of such actions in the *Federal Register*.

I. Notwithstanding the other requirements of this Subchapter, when the total of direct and indirect emissions of any pollutant from a federal action does not equal or exceed the rates specified in Subsection B of this Section, and the federal action is regionally significant, the requirements of LAC 33:III.1403 and 1407-1412 shall apply.

J. Where an action otherwise presumed to conform under Subsection F of this Section is a regionally significant action or does not, in fact, meet one of the criteria in Subsection G.1 of this Section, that action shall not be presumed to conform and the requirements of LAC 33:III.1403 and 1407-1412 shall apply for the federal action.

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: (November 1994).

§1406. Conformity Analysis

Any federal department, agency, or instrumentality of the federal government taking an action subject to this Subchapter must make its own conformity determination consistent with

the requirements of this Subchapter. In making its conformity determination, a federal agency must consider comments from any interested parties. Where multiple federal agencies have jurisdiction for various aspects of a project, a federal agency may choose to adopt the analysis of another federal agency (to the extent the proposed action and impacts analyzed are the same as the project for which a conformity determination is required) or develop its own analysis in order to make its conformity determination. Any analysis adopted must include all known facility emissions associated with the action.

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: (November 1994).

§1407. Reporting Requirements

A. A federal agency making a conformity determination under LAC 33:III.1410 must provide to the department, the EPA Region 6 Office, local air quality agencies and, where applicable, affected federal land managers, and the MPO a direct notice 30 days prior to final adoption of the conformity determination, which describes the proposed action and the federal agency's draft conformity determination on the action in sufficient detail to demonstrate that criteria and procedures required in LAC 33:III.1410-1412 are applied.

B. A federal agency must give direct notification to the department, the EPA Region 6 Office, local air quality agencies and, where applicable, affected federal land managers, and the MPO within 30 days after making a final conformity determination under LAC 33:III.1410.

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: (November 1994).

§1408. Public Participation

A. Upon request by any person regarding a specific federal action, a federal agency must make available for review its draft conformity determination under LAC 33:III.1410 with supporting materials which describe the analytical methods, assumptions, and conclusions relied upon in making the applicability analysis and draft conformity determination.

B. A federal agency must make public its draft conformity determination under LAC 33:III.1410 by placing a notice by prominent advertisement in the official state journal (daily newspaper so designated) and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.

C. A federal agency must document its response to all the comments received on its draft conformity determination under LAC 33:III.1410 and make the comments and responses available, upon request by any person regarding a specific federal action, within 30 days of the final conformity determination.

D. A federal agency must make public its final conformity determination under LAC 33:III.1410 for a federal action by placing a notice by prominent advertisement in the official state journal (a daily newspaper so designated) within 30 days of the final conformity determination.

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: (November 1994).

§1409. Frequency of Conformity Determinations

A. The conformity status of a federal action automatically lapses five years from the date its final conformity determination is reported under LAC 33:III.1407, unless the federal action has been completed or a continuous program has been commenced to implement that federal action within a reasonable time.

B. Ongoing federal activities at a given site showing continuous progress are not new actions and do not require periodic redetermination so long as the emissions associated with such activities are within the scope of the final conformity determination reported under LAC 33:III.1407.

C. A new conformity determination is required if, after the conformity determination is made, the federal action is changed so that there is an increase in the total of direct and indirect emissions and the new net emissions are above the levels in LAC 33:III.1405.B.

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: (November 1994).

§1410. Criteria for Determining Conformity of General Federal Actions

A. An action required under LAC 33:III.1405 to have a conformity determination for a specific pollutant will be determined to conform to the applicable SIP if, for each pollutant that equals or exceeds the rates in LAC 33:III.1405.B or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of Subsection C of this Section and meets any of the following requirements:

1. for any criteria pollutant, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;

2. for ozone or nitrogen dioxide, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area through a revision to the applicable SIP or a measure similarly enforceable under state and federal law that effects emission offsets so that there is no net increase in emissions of that pollutant;

3. for any criteria pollutant, except ozone and nitrogen dioxide, the total of direct and indirect emissions from the action meet the requirements:

a. specified in Subsection B of this Section, based on areawide air quality modeling analysis and local air quality modeling analysis; or

b. meet the requirements of Subsection A.5 of this Section and, for local air quality modeling analysis, the requirement of Subsection B of this Section;

4. for CO or PM₁₀:

a. where the department determines that an areawide air quality modeling analysis is not needed, the total of direct

and indirect emissions from the action meet the requirements specified in Subsection B of this Section based on local air quality modeling analysis; or

b. where the department determines that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in Subsection B of this Section based on areawide modeling or meet the requirements of Subsection A.5 of this Section; or

5. for ozone or nitrogen dioxide and for purposes of Subsection A.3.b and 4.b of this Section, each portion of the action or the action as a whole meets any of the following requirements:

a. where EPA has approved a revision to an area's attainment or maintenance demonstration after 1990 and the department makes a determination as provided in Subsection A.5.a.i of this Section or where the state makes a commitment as provided in Subsection A.5.a.ii of this Section:

i. the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the department to result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed the emissions budgets specified in the applicable SIP. As a matter of policy, should the department make such determination or commitment, the federal agency must provide to the department information on all known projects or other actions which may affect air quality or emissions in any area to which this rule is applicable, regardless of whether such project or action is determined to be subject to this rule under LAC 33:III.1405. The department may charge the federal agency requesting such determination a reasonable fee based on the number of manhours required to perform and document the determination; or

ii. the total of direct and indirect emissions from the action (or portion thereof) is determined by the department to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would exceed an emissions budget specified in the applicable SIP and the governor or the governor's designee for SIP actions makes a written commitment to EPA which includes the following:

(a). a specific schedule for adoption and submittal of a SIP revision which provides that the needed emission offsets would be achieved prior to the time emissions from the federal action would occur;

(b). identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area would not exceed any emissions budget specified in the applicable SIP;

(c). a demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the federal action and that local authority to implement additional requirements has been fully pursued;

(d). a determination that the responsible federal agencies have required all reasonable mitigation measures associated with their action, such as mitigation measures available through the SIP regulating banking of emission credits; and

(e). written documentation including all air quality analyses supporting the conformity determination.

iii. where a federal agency made a conformity determination based on a state commitment under Subsection A.5.a.ii of this Section, such a state commitment is automatically deemed a call for a SIP revision by EPA under section 110(k)(5) of the CAA, effective on the date of the federal conformity determination and requiring response within 18 months or any shorter time within which the state commits to revise the applicable SIP;

b. the action (or portion thereof), as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under LAC 33:III.Chapter 14, Subchapter B, or 40 CFR part 93, subpart A;

c. emissions from the action (or portion thereof) are fully offset within the same nonattainment or maintenance area through a revision to the applicable SIP or an equally enforceable measure that effects emission offsets equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

d. where EPA has not approved a revision to the relevant SIP attainment or maintenance demonstration since 1990, the total of direct and indirect emissions from the action for the future years [described in LAC 33:III.1411.D] do not increase emissions with respect to the baseline emissions and the baseline emissions:

i. reflect the historical activity levels that occurred in the geographic area affected by the proposed federal action during:

(a). calendar year 1990;

(b). the calendar year that is the basis for the classification (or, where the classification is based on multiple years, the year that is most representative in terms of the level of activity associated with emissions), if a classification is promulgated in 40 CFR part 81; or

(c). the year of the baseline inventory in the applicable PM₁₀ SIP;

ii. are the total of direct and indirect emissions calculated for the future years [described in LAC 33:III.1411.D] using the historic activity levels [described in Subsection A.5.d.i of this Section] and appropriate emission factors for the future years; or

e. where the action involves regional water and/or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

B. The areawide and/or local air quality modeling analyses must:

1. meet the requirements in LAC 33:III.1411; and

2. show that the action does not:

a. cause or contribute to any new violation of any standard in any area; or

b. increase the frequency or severity of any existing violation of any standard in any area.

C. Notwithstanding any other requirements of this Section, an action subject to this Subchapter may not be determined to conform to the applicable SIP unless the total of direct and

indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements.

D. Any analyses required under this Section must be completed and any mitigation requirements necessary for a finding of conformity must be identified and committed to in compliance with LAC 33:III.1412.B and F before the determination of conformity is made.

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: (November 1994).

§1411. Procedures for Conformity Determinations of General Federal Actions

A. The analyses required under this Subchapter must be based on the latest planning assumptions.

1. All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO or state agency authorized to make such estimates where available.

2. Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or state agency authorized to make such estimates for the area.

B. The analyses required under this Subchapter must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate and written approval of the EPA regional administrator is obtained for any modification or substitution, they may be modified or another technique substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program.

1. For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in the state must be used for the conformity analysis as specified below:

a. the EPA must publish in the *Federal Register* a notice of availability of any new motor vehicle emissions model; and

b. a grace period of three months shall apply during which the motor vehicle emissions model previously specified by EPA as the most current version may be used. Conformity analyses for which the analysis was begun during the grace period or no more than three years before the *Federal Register* notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.

2. For nonmotor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors (AP-42)" must be used for the conformity analysis unless more accurate emission data are available, such as actual stack

test data from stationary sources which are part of the conformity analysis.

C. The air quality modeling analyses required under this Subchapter must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models (Revised)" (1986), including supplements (EPA publication no. 450/2-78-027R), unless:

1. the guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program; and
2. written approval of the EPA regional administrator is obtained for any modification or substitution.

D. The analyses required under this Subchapter, except LAC 33:III.1410.A.1, must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

1. the CAA-mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;
2. the year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and
3. any year for which the applicable SIP specifies an emissions budget.

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: (November 1994).

§1412. Mitigation of Air Quality Impacts

A. Any measures that are intended to mitigate air quality impacts must be identified [including the identification and quantification of all emission offsets claimed] and the process for implementation [including any necessary funding of such measures and tracking of such emission reductions] and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.

B. Prior to determining that a federal action is in conformity, the federal agency making the conformity determination must obtain written commitments to mitigate from the appropriate persons or agencies who will implement mitigation measures which are identified as conditions for making conformity determinations, including mitigation measures that the federal agency making the conformity determination must itself implement as a condition for making the conformity determination. Such written commitment shall describe such mitigation measures and the nature of the commitment in a manner consistent with Subsection A of this Section.

C. Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

D. In instances where the federal agency is licensing, permitting, or otherwise approving the action of another governmental or private entity, approval by the federal agency

must be conditioned on the committing entity meeting the mitigation measures set forth in the conformity determination as provided in Subsection A of this Section.

E. When necessary because of changed circumstances and if permissible by the state and federal law regulating the original mitigation, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination in accordance with LAC 33:III.1410-1412. Any proposed change in the mitigation measures is subject to the reporting requirements of LAC 33:III.1407 and the public participation requirements of LAC 33:III.1408.

F. Written commitments to mitigation measures must be obtained prior to a positive conformity determination and such commitments must be fulfilled.

G. After the department revises its SIP to adopt its general conformity rules and EPA approves that SIP revision, any agreements, including mitigation measures, necessary for a conformity determination will be both state and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct and indirect emissions associated with a federal action for a conformity determination.

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: (November 1994).

§1413. Departmental Review

When notified by the federal agency of action that would be presumed to conform or when notified of a proposed conformity determination, the department will review documentation, clarify information, and provide written comments as appropriate to ensure accountability of federal actions.

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: (November 1994).

§1414. Enforcement Provisions

A. Any person(s) regulated by this Subchapter, including any person(s) who voluntarily commit to mitigate measures for emissions offsets to federal actions and who fail to comply with the requirements of this Subchapter shall be subject to enforcement provisions under R.S. 30:2025.

B. Failure to comply with any requirement of this Subchapter shall be subject to enforcement under the provisions of 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: (November 1994).

§1415. Savings Provision

The federal conformity rules under 40 CFR part 93, subpart A establish the conformity criteria and procedures necessary to meet the requirements of the CAA, section 176(c), until such time that this conformity implementation plan revision is approved by EPA. Following EPA approval of this revision to the applicable implementation plan (or a portion thereof), the approved (or approved portion of) state criteria and

procedures would govern conformity determinations; and the federal conformity regulations contained in 40 CFR part 93 would apply only for the portion, if any, of the state's conformity provisions that is not approved by EPA.

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: (November 1994).

James B. Thompson, III
Assistant Secretary

9411#043

RULE

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

Emission Standard for Asbestos (LAC 33:III.5151)(AQ97)

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.5151, (AQ97).

This rule amends LAC 33:III.5151, Emission Standards for Asbestos. These amendments expand the requirements regarding training and accreditation for various asbestos disciplines and activities. The state will require that all persons who conduct response actions greater than three square or three linear feet in public and commercial buildings be trained in the appropriate asbestos discipline. This is already required by federal law and presently a requirement for activities conducted in state-owned or leased buildings. These amendments will require accreditation by the Department of Environmental Quality (DEQ) for all inspectors, project designers, and air monitors. Currently, accreditation is required for contracted workers, supervisors, and air monitoring personnel involved in demolition or renovation activities and response action in schools and state buildings only.

The accreditation plan of the DEQ asbestos program has been approved by the USEPA. In order to maintain this approval, these revisions must be completed by October 24, 1994.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

[See Prior Text in A]

B. Definitions. Terms used in this Section are defined in

LAC 33:III.111 of these regulations with the exception of those terms specifically defined in LAC 33:III.5103 or below, as follows:

Accredited or Accreditation—when referring to a person, the accreditation of such person by the Department of Environmental Quality under the provisions of LAC 33:III.Chapter 27, Appendix A, Agent Accreditation Plan.

[See Prior Text]

Asbestos Material—asbestos or any material or product which contains more than one percent asbestos.

[See Prior Text]

Encapsulation—the treatment of asbestos material with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers by the encapsulant creating a membrane over the surface (bridging encapsulant) or penetrating the material and binding its components together (penetrating encapsulant).

Enclosure—an airtight, impermeable, permanent barrier around ACBM to prevent the release of asbestos fibers into the air.

[See Prior Text]

Inspection or Inspect—an examination of a facility or facility component to determine the presence or location, or to assess the condition of friable or non-friable asbestos material, or suspected asbestos material, whether by visual or physical examination, or by collecting samples of such material. This term includes reinspections of assumed asbestos material and friable and non-friable asbestos material which has been previously identified. The term does not include the following:

a. periodic surveillance of the type described in LAC 33:III.2721.B solely for the purpose of recording or reporting a change in the condition of known or assumed asbestos material;

b. inspections performed by employees or agents of federal, state, or local government solely for the purpose of determining compliance with applicable statutes or regulations; or

c. visual inspections of the type described in LAC 33:III.2717.I solely for the purpose of determining completion of response actions.

[See Prior Text]

Major Fiber Release Episode—any uncontrolled or unintentional disturbance of asbestos material which involves the falling or dislodging of more than three square or three linear feet of friable asbestos material.

[See Prior Text]

Operations and Maintenance (O&M)—a program of work practices to maintain friable asbestos material in good condition, ensure cleanup of asbestos fibers previously released, and prevent further release by minimizing and controlling the disturbance or damage of friable asbestos material.

[See Prior Text]

Response Action—a method, including removal, encapsulation, enclosure, repair, and operations and maintenance activities, that protects human health and the environment from friable asbestos material.

* * *

[See Prior Text]

Small-scale, Short-duration (SSSD) Activities—tasks that involve less than or equal to three square feet or three linear feet of asbestos material.

State Building—a building owned or leased by the state of Louisiana.

* * *

[See Prior Text in Strip - F.3.g.iii]

h. No response action shall be conducted at a facility regulated by this Section unless at least one asbestos abatement contractor/supervisor is physically present. All asbestos abatement workers who are performing response actions other than SSSD activities, shall be supervised by an asbestos contractor/supervisor. Evidence of the required training shall be made available for inspection by the administrative authority at the demolition or renovation site. Evidence of required training shall include, but not be limited to, the appropriate training certificates, DEQ issued identification card or accreditation certificates. For contracted abatement personnel, evidence of accreditation shall be made available for inspection by the administrative authority at the demolition or renovation site.

* * *

[See Prior Text in F.3.i - O.4.c]

P. Training and Accreditation Requirements

1. Asbestos Discipline

a. Worker. A person must be trained as a worker in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.5 to perform any of the following activities in a facility regulated by this Section:

- i. a response action other than an SSSD activity;
- ii. a maintenance activity other than an SSSD activity that disturbs RACM; or
- iii. a response action for a major fiber release episode.

b. Contractor/Supervisor. A person must be trained as a contractor/supervisor in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.4 to supervise any of the following activities in a facility regulated by this Section:

- i. a response action other than an SSSD activity;
- ii. a maintenance activity other than an SSSD activity that disturbs RACM; or
- iii. a response action for a major fiber release episode.

c. Inspector. A person must be trained as an inspector in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.1 and accredited in order to inspect for asbestos materials in facilities regulated by this Section.

d. Project Designer. A person must be trained as a project designer in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.3 and accredited in order to design any of the following activities in a facility regulated by this Section:

- i. a response action other than a SSSD activity;
- ii. a maintenance activity other than an SSSD activity that disturbs RACM; or
- iii. a response action for a major fiber release episode.

e. Air Monitor Personnel. A person must be trained as an asbestos contractor/supervisor in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.4 and accredited to conduct air monitoring for an asbestos abatement project or related activity in facilities regulated by this Section.

2. Response Actions

a. Response actions including removal, encapsulation, enclosure, or repair, other than small-scale, short-duration activities in state buildings and schools shall be designed and conducted by persons accredited to design and conduct response actions.

b. When response actions are performed by contracted personnel, those person shall be accredited.

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:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20: (November 1994).

James B. Thompson, III
Assistant Secretary

9411#078

RULE

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

Federal Transit Act Conformity
(LAC 33:III.Chapter 14)(AQ99)

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 has amended the Air Quality Division Regulations, LAC 33:III.Chapter 14, (AQ99) and the Office of Air Quality and Radiation Protection has submitted a revision to the State Implementation Plan (SIP) which incorporates the rule.

This rule and SIP revision establishes policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects which are developed, funded, or approved by the U.S. Department of Transportation and by Metropolitan Planning Organizations under Title 23 U.S.C. or the Federal Transit Act of state or federal air quality implementation plans developed pursuant to Section 110 and Part D of the Clean Air Act. This action was mandated by Section 176(c) of the Clean Air Act, as amended, and the related requirements of 23 U.S.C. 109(j). Federal requirements for transportation conformity are established in

40 CFR Part 51, Subpart T of the *Federal Register*.

The full text of this rule may be viewed at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504) 342-5015 and at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 1) DEQ Headquarters, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810, Regulatory Compliance Division, Fourth Floor, for the regulation; and Air Quality Division, Second Floor, for the SIP revision; 2) 804 31st Street, Monroe, LA 71203; 3) State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 4) 3519 Patrick Street, Lake Charles, LA 70605; 5) 3945 North I-10 Service Road West, Metairie, LA 70002; and 6) 100 Asma Boulevard, Suite 151, Lafayette, LA 70508. Please refer to AQ99 when inquiring about this final rule.

James B. Thompson, III
Assistant Secretary

9411#047

RULE

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

Fugitive Emission Control for Ozone Nonattainment Areas (LAC 33:III.2122) (AQ84)

(Editor's Note: The above referenced rule was published in the October 20, 1994 Louisiana Register on pages 1102-1106. Subsection E.1.g is being republished to correct the January 1, 1995 compliance date to January 1, 1996.)

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2122. Fugitive Emission Control for Ozone Nonattainment Areas

* * *

[See Prior Text in A - D.5]

E. Alternate Control Techniques. The monitoring schedule in Subsection D of this Section may be modified as follows:

1. Alternate Standards for Valves subject to Subsection D.1.b or D.2.b of this Section - Skip Period Leak Detection and Repair.

* * *

[See Prior Text in E.1.a. - f]

g. Existing equipment that has been monitored under LAC 33:III.2121 for fugitives at the leak definition of 10,000 ppmv can initially elect to use this alternate standard if the unit has data documented by January 1, 1996, with the department that indicates the percent of leaking valves (Eq. 1) is less than or equal to 2.0 percent leak rate at 10,000 ppmv for the required time period.

* * *

[See Prior Text in E.2 - G.13]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20: (November 1994).

James B. Thompson, III
Assistant Secretary

9411#046

RULE

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

Glycol Dehydrators (LAC 33:III.2116) (AQ96)

(Editor's Note: The following rule is being republished to incorporate technical amendments from the notice of intent published June, 1994. These changes were inadvertently omitted in the final rule which appeared in the October, 1994 Louisiana Register.)

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 has amended the Air Quality Division Regulations, LAC 33:III.2116, (AQ96).

The rule requires smaller glycol dehydrators, those not subject to LAC 33:III.2115 or Chapter 51, to install devices to control VOCs and to monitor the still column temperature. Non-Part 70 sources will have up to two years to come into compliance with this proposed rule. Sources requiring a Part 70 permit will have one year to come into compliance.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2116. Glycol Dehydrators

A. Applicability. The provisions of this rule shall apply to the owner or operator of any glycol dehydrator that:

1. is not required to install controls according to LAC:33.III.Chapter 51; or

2. is not required to install controls according to LAC:33.III.2115.

B. Requirements

1. Any existing glycol dehydrator using a condenser as a control device must annually achieve an average final exhaust temperature less than 110°F or demonstrate to the administrative authority a 70 percent reduction of still-column emissions using methods found in Subsection D of this Section.

2. Any new glycol dehydrator, constructed after the date of promulgation of this rule, and not subject to LAC:33.III.2115 or Chapter 51, which uses a condenser as a control device shall ensure an 85 percent reduction of

still-column emissions using approved methods found in Subsection D of this Section.

3. Any glycol dehydrator using a flare or other combustion device as a control device shall be deemed equivalent to the control efficiencies of Subsection B.1 and 2 of this Section provided the unit is permitted in accordance to LAC 33:III.Chapter 5.

C. Exemptions. A glycol dehydrator is exempt from the requirements of this Section if any of the following conditions are met:

1. the owner can demonstrate to the administrative authority that the glycol dehydrator operates fewer than 200 hours per year; or

2. the owner can demonstrate to the administrative authority that the glycol dehydrator does not emit total VOC emissions in excess of nine tons per year.

D. Test Methods. The emissions from uncontrolled glycol dehydrators affected by Subsection A of this Section shall be determined using one of the following methods:

1. rich/lean glycol mass balance using pressurized sample;

2. total capture stack condensation;

3. partial stack condensation;

4. conventional stack measurements using LAC 33:III:6071 and 6085 (Methods 18 and 25); or

5. alternative methods of testing as approved by the administrative authority.

E. Compliance Schedule. All facilities affected by this Section shall be in compliance as soon as practicable, but in no event later than two years after promulgation of this rule, except those facilities required to submit a Part 70 permit. Facilities required to submit a Part 70 permit shall be in compliance within one year of the date of promulgation of this rule.

F. Recordkeeping. The owner or operator of any facility subject to this rule shall maintain the following information on the premises, or an alternative location approved by the administrative authority for at least five years and shall make the following information available to representatives of the Louisiana Department of Environmental Quality upon request:

1. Glycol units complying with Subsection B.1 of this Section shall maintain:

a. record of final exhaust temperature and time observed recorded twice a week on different days; and

b. a record of total hours of operation on an annual basis if claiming an exemption under Subsection C.1 of this Section.

2. Glycol units complying with Subsection B.3 of this Section:

a. flares shall be operated in accordance with LAC 33:III.3131; and

b. other combustion devices used to control emissions shall be operated in accordance with LAC 33:III.Chapter 31.

3. All glycol units shall maintain:

a. a record of actual production per day and glycol circulation rate if claiming an exemption under Subsection C.2 of this Section; and

b. record the hours the emissions are not routed to the control device.

G. Reporting Requirements

1. The owner or operator of a facility shall submit to the administrative authority a permit application after installation of controls unless exempt from permitting pursuant to LAC 33:III.Chapter 5.

2. If no permit is required pursuant to LAC 33:III.Chapter 5, the owner or operator of a facility shall submit to the administrative authority a new or updated emission inventory questionnaire after installation of controls.

3. The owner or operator of a facility shall submit to the administrative authority by March 31 each year (or other date as requested by the administrative authority) an annual report containing the following information:

a. for glycol units complying with Subsection B.1 of this Section:

i. a record of the annual average final exhaust temperature; and

ii. a list of all temperature exceedances greater than or equal to 120°F, the date of each temperature exceedance, and a brief explanation describing the circumstances of the temperature exceedance.

b. for glycol units complying with Subsection B.3 of this Section record the times when the flare or combustion unit is not lit and when emissions are not being routed to the control device.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), repromulgated LR 20: (November 1994).

James B. Thompson, III
Assistant Secretary

9411#044

RULE

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

Insignificant Activities Permit Exemption (LAC 33:III.501) (AQ93)

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 has amended Air Quality Division Regulations, LAC 33:III.501.B.5 (AQ93).

This rule revises the Louisiana Air Quality Permit Procedures. The revision seeks to define Insignificant Emission Sources and to exempt such sources from the requirement to obtain a permit. Failure to promulgate this revision would result in the following types of emission sources having to comply with obtaining a permit: miscellaneous equipment (maintenance or construction);

exhaust emissions from cars, trucks, forklifts, etc.; office activities such as photocopying, blueprint copiers; site assessment work to characterize waste disposal or remediation sites; emissions from storage or use of water treating chemicals; emissions from food preparation at restaurants, cafeterias, and facilities; buildings and cabinets used for storage of chemicals in closed containers; etc.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

[See Prior Text in A - B.4.b]

5. Insignificant Activities List. Those activities listed in the following table are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under this Chapter unless it is determined by the permitting authority on a site-specific basis that any such exemption is not appropriate. The listing of any activity or emission unit as insignificant does not authorize the maintenance of a nuisance or a danger to public health or safety. Any activity for which a state or federal applicable requirement applies is not insignificant, even if the activity meets the criteria below. For the purpose of permitting requirements under LAC 33:III.507, no exemption listed in the following table shall become effective until approved by the administrator in accordance with 40 CFR Part 70.

Insignificant Activities List
<p>A. Based on Size or Emission Rate</p> <p>Permit applications submitted under Subsection A of this Section for sources which include any of the following emissions units, operations, or activities must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III.517:</p>

Insignificant Activities List
1. fuel-burning heating equipment with a design rate greater than or equal to 1 million BTU per hour but less than or equal to 10 million BTU per hour, provided that the aggregate emissions from all such units listed as insignificant do not exceed five tons per year;
2. storage tanks less than 250 gallons storing organic liquids having a true vapor pressure less than or equal to 3.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed five tons per year, do not exceed any Minimum Emission Rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to section 112(g) of the federal Clean Air Act;
3. storage tanks less than 10,000 gallons storing organic liquids having a true vapor pressure less than 0.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed five tons per year, do not exceed any Minimum Emission Rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to section 112(g) of the federal Clean Air Act;
4. emissions from caustic storage tanks which contain no VOC;
5. emissions of any inorganic air pollutant which is not a regulated air pollutant as defined under LAC 33:III.502, provided that the aggregate emissions from all such pollutants listed as insignificant do not exceed five tons per year;
6. fuel-burning heating equipment with a design rate less than 1 million BTU per hour;
7. Emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes, provided that the aggregate emissions from all such equipment vents considered insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to section 112(g) of the federal Clean Air Act;
8. Noncommercial water washing operations of empty drums less than or equal to 55 gallons with less than three percent of the maximum container volume of material.

Insignificant Activities List

B. Based on Activity

The following activities need not be included in a permit application:

1. activities which occur strictly for maintenance of grounds or buildings, including: lawn care, weed control, pest control, grinding, cutting, welding, woodworking, general repairs, janitorial activities, steam cleaning, and water washing activities;
2. surface-coating of equipment during miscellaneous maintenance and construction activities, including spray painting, roll-coating and painting with aerosol spray cans, provided no paint or coating exceeds a maximum 3.5 lb/gal organic toxic air pollutant listed in Tables 51.1 or 51.3 of LAC 33:III.Chapter 51, and no paint or coating exceeds any limitations listed in LAC 33:III.2123. This activity specifically does not include any facility whose primary business activity is surface-coating or includes surface-coating of products;
3. miscellaneous equipment maintenance or construction unless otherwise regulated by state or federal regulation, which may include, but is not limited to, such activities as: welding, steam cleaning, equipment used for hydraulic or hydrostatic testing, miscellaneous solvent use¹, miscellaneous sandblasting, sweeping, nonasbestos insulation removal, acid washing, caustic washing, water blasting, application of refractory and insulation, brazing, soldering, the use of adhesives, grinding, and cutting;
4. exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and off-road mobile sources unless regulated by Title II and required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21;
5. office activities such as photocopying, blueprint copying, and photographic processes;
6. site assessment work to characterize waste disposal or remediation sites;
7. operation of groundwater remediation wells, including emissions from the pumps and collection activities. This does not include emissions from air-stripping or storage;

Insignificant Activities List

8. emissions from storage or use of water-treating chemicals, except for toxic air pollutants as listed in Tables 51.1 or 51.3 of LAC 33:III.Chapter 51, or pollutants listed under regulations promulgated pursuant to section 112(r) of the federal Clean Air Act, for use in cooling towers, drinking water systems, and boilerwater/feedwater systems;
9. miscellaneous additions or upgrades of instrumentation or control systems;
10. emissions from food preparation at restaurants, cafeterias, and facilities where food is consumed on-site;
11. emissions from air contaminant detectors, air contaminant recorders, combustion controllers, or combustion shutoff devices;
12. buildings, cabinets, and facilities used for storage of chemicals in closed containers, unless subject to any federally applicable requirement as defined under LAC 33:III.503 or any requirement under LAC 33:III;
13. use of products for the purpose of maintaining motor vehicles operated by the facility, not including air conditioning units of such vehicles (i.e., antifreeze, fuel additives);
14. reserved;
15. stacks or vents to prevent escape of sanitary sewer gases through plumbing traps;
16. emissions from equipment lubricating systems (i.e., oil mist) not to include storage tanks unless exempt elsewhere in this section;
17. air conditioning or comfort ventilation systems not regulated under title VI of the federal Clean Air Act;
18. residential wood heaters, cookstoves, or fireplaces;
19. recreational fireplaces;
20. log wetting areas;
21. log flumes;
22. instrument air systems, excluding fuel-fired compressors;
23. paved parking lots;
24. air vents from air compressors;
25. periodic use of air for cleanup;
26. solid waste dumpsters;

Insignificant Activities List
27. emissions of wet lime mud from lime mud mix tanks, lime mud washers, lime mud piles, lime mud filter and filtrate tanks, and lime mud slurry tanks;
28. emissions from pneumatic starters on reciprocating engines, turbines, or other equipment;
29. emissions from natural gas odoring activities unless the permitting authority determines that a nuisance may occur;
30. emissions from engine crackcase vents;
31. storage tanks used for the temporary containment of materials resulting from an emergency response to an unanticipated release of pulping liquor;
32. emergency use generators, boilers, or other fuel burning equipment which is of equal or smaller capacity than the primary operating unit, cannot be used in conjunction with the primary operating unit, and does not emit, have or cause the potential to emit of any regulated air pollutant to increase;
33. equipment used exclusively to mill or grind coatings in roll grinding and rebuild and molding compounds where all materials charged are in paste form;
34. mixers, blenders, roll mills, or calendars for rubber or plastics for which no materials in powder form are added and in which no organic solvents, diluents, or thinners are used;
35. the storage handling and handling equipment for bark and wood residues not subject to fugitive dispersion offsite;
36. reserved;
37. maintenance dredging of pulp and paper mill surface impoundments and ditches containing cellulosic and cellulosic derived biosolids and inorganic materials such as lime, ash, or sand;
38. liquid and gas sampling systems for routine pulp and paper process control instrument calibration and regulatory information. For example, pulping liquor concentration, black liquor solids, whitewater chemistry;
39. tall oil soap storage, skimming, and loading; and
40. reserved.
C. Based on Type of Pollutant Emissions of the following pollutants need not be included in a permit application:
1. water vapor;
2. oxygen;

Insignificant Activities List
3. carbon dioxide;
4. nitrogen;
5. hydrogen.
D. Exemptions Based on Emissions Levels with Prior Approval Granted by the Permitting Authority
The owner or operator of any source may apply for an exemption from the permitting requirements of this Chapter for any emissions unit provided each of the following criteria are met. Activities or emissions units exempt as insignificant based on these criteria shall be included in the permit at the next renewal.
a. the emissions unit emits and has the potential to emit no more than five tons per year of any regulated pollutant;
b. the emissions unit emits and has the potential to emit less than the minimum emission rate listed in Table 51.1, LAC 33:III.Chapter 51, for each Louisiana toxic air pollutant;
c. the emissions unit emits and has the potential to emit less than the de minimis rate established pursuant to section 112(g) of the federal Clean Air Act for each hazardous air pollutant; and
d. no enforceable permit conditions are necessary to ensure compliance with any applicable requirement.

¹ State or federal regulations may apply.

* * *

[See Prior Text in B.6-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: (November 1994).

James B. Thompson, III
Assistant Secretary

9411#077

RULE

Department of Health and Hospitals Board of Medical Examiners

Clinical Laboratory Personnel (LAC 46:XLV.3501-3543)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1311-1329 and 37:1270(A)(5), and the provisions of the Administrative Procedure Act, and on the recommendation of the Clinical Laboratory Personnel Committee constituted under R.S. 37:1314, has adopted rules governing the licensure and certification of clinical laboratory personnel to practice clinical laboratory science in the state of Louisiana, LAC 46:XLV, Subpart 2, Chapter 35, §§3501-3543.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 35. Clinical Laboratory Personnel

Subchapter A. Scope and Definitions

§3501. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter provide for and govern the licensure and certification of clinical laboratory personnel to practice clinical laboratory science in the state of Louisiana.

B. Declaration of Purpose. The purpose of these rules and the law they implement is to protect the public health, safety, and welfare of the people of Louisiana from improper performance of laboratory tests by clinical laboratory personnel. Clinical laboratories provide essential services to health care practitioners by furnishing information vital to a determination of the nature, cause, and extent of the condition involved. Licensure of laboratory personnel protects against the improper performance of laboratory tests by establishing and enforcing minimum requirements for safe practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3503. Definitions

As used in this Chapter, the following terms are given the following meanings:

Approved Nationally Recognized Certification Examination—an examination prepared and administered by a certifying organization approved by the board as satisfying the minimum examination qualifications for licensure or certification for each of the classifications of clinical laboratory personnel for which successful completion of a certifying examination is required as provided by the law and these rules.

Approved Professional Organizations—an organization approved by the board to offer continuing education and/or training programs, and includes the following organizations:

- a. American Society for Clinical Laboratory Science;
- b. American Medical Technologists;

c. International Society for Clinical Laboratory Technology;

d. American Society of Clinical Pathologists;

e. American Society of Cytology;

f. American Society for Microbiology;

g. American Association of Blood Banks;

h. American Association of Clinical Chemistry;

i. Clinical Laboratory Management Association;

j. Association of Territorial and Public Health Laboratory Directors;

k. Centers for Disease Control;

l. National Accrediting Agency for Clinical Laboratory Sciences;

m. Gamma Biologicals Referred Immunohematology Self Evaluation System and Tutorial Program for Continuing Education of Blood Bankers;

n. affiliates of an organization identified by the board, upon recommendation of the committee, as an approved professional organization;

o. accredited colleges and universities;

p. American Society for Cytotechnology;

q. American Academy of Forensic Sciences;

r. Society of Forensic Testing; and

s. other organizations as may be approved by the board upon recommendation of the committee.

Approved School or Training Program—a school or training program accredited by the Council on Medical Education of the American Medical Association, the National Accrediting Agency for Clinical Laboratory Sciences, or the Council on Allied Health Education Programs and approved by the committee and the board.

Board—the Louisiana State Board of Medical Examiners.

CLIA—the Clinical Laboratory Improvement Amendments of 1988, Public Law Number 100-578, and the rules and regulations promulgated pursuant thereto.

Clinical Cytotechnology—the microscopic study or examination of body fluids, tissues, or cells desquamated from a body surface or lesion for the practice of clinical laboratory science including, but not limited to, detecting malignancy and microbiologic changes and the measurement of hormonal levels.

Clinical Laboratory—any building, place, or facility in which an operation and procedure for the biological, microbiological, serological, immunological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examinations of materials derived from the human body is performed to provide information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of, the health of human beings, or for forensic testing.

Clinical Laboratory Personnel—any and all individuals engaged in the practice of clinical laboratory science.

Clinical Laboratory Scientist-Generalist or CLS-G—an individual who performs clinical laboratory tests and procedures in all specialty areas of a clinical laboratory which require the exercise of independent judgment and responsibility, including but not limited to, the performance of all laboratory tests as stated in CLIA. The clinical laboratory scientist-generalist may perform the functions of all categories

of all clinical laboratory personnel licensed or certified in accordance with the law, except those of the cytotechnologist, without additional licensure or certification.

Clinical Laboratory Scientist—Specialist or *CLS-S*—an individual performing clinical laboratory science in one or more laboratory specialties and who performs functions directly related to such particular laboratory specialty or specialties. A clinical laboratory scientist—specialist may perform the functions of the laboratory assistant and the phlebotomist without additional licensure or certification.

Clinical Laboratory Scientist—Technician or *CLS-T*—an individual who performs medical laboratory tests and procedures of high and moderate complexity as defined in 42 Code of Federal Regulations, Part 493, within any area of clinical laboratory science, which do not require the exercise of independent judgment or responsibility. The clinical laboratory scientist—technician shall perform tests and procedures of high complexity under supervision as defined in CLIA. The clinical laboratory scientist—technician may perform the functions of the laboratory assistant and the phlebotomist without additional licensure or certification.

Committee—the Clinical Laboratory Personnel Committee to the Louisiana State Board of Medical Examiners, as established and constituted under R.S. 37:1314.

Cytotechnologist—an individual engaged in the practice of clinical cytotechnology which requires the exercise of independent judgment and responsibility.

Health Care Provider—any person licensed, certified or registered by a department, board, commission or other agency of the State of Louisiana to provide preventive, diagnostic or therapeutic health care services.

Independent Judgment—the performance or conduct of clinical laboratory tests and assumption of responsibility for determination of the validity and interpretation of clinical laboratory test results without intervention by or the supervision of another health care provider authorized by law to assume responsibility for the conduct and validity of clinical laboratory tests. As respects clinical laboratory personnel, the authorized exercise of independent judgment shall not be deemed to include or permit the exercise of independent medical judgment in the diagnosis of or treatment of, or reporting of clinical laboratory test results or their interpretation to, patients except as authorized in accordance with CLIA.

Laboratory Assistant or *LA*—an individual who performs medical laboratory tests and procedures under supervision by a licensed health care provider or laboratory director as defined in 42 Code of Federal Regulations Part 493. Laboratory tests and procedures performed by the laboratory assistant do not require the exercise of independent judgment or responsibility within any area of clinical laboratory science. The laboratory assistant may perform high complexity tests under supervision as stated in CLIA.

Laboratory Specialty—any category or subcategory recognized as a specialty by a certifying agency for the category of clinical laboratory scientist—specialist, including, but not limited to, the categories of hematology, microbiology, chemistry and blood bank, and the subcategories thereunder.

Law, The—the Louisiana Clinical Laboratory Personnel Law, R.S. 37:1311–1329, as the same may be amended hereafter.

Phlebotomist—an individual performing invasive procedures to withdraw blood samples from the human body for the practice of clinical laboratory science, including but not limited to, clinical laboratory testing for analysis and typing and cross-matching of blood for medical examination and human transfusion. A phlebotomist may perform and report results of any waived tests.

Practice of Clinical Laboratory Science, The—the performance by any individual, other than a physician licensed by the board, of laboratory testing, analysis, or examination of human specimens.

Temporary License or Temporary Certificate—a license or certificate issued to an individual that qualifies by education, experience, or training that will allow that individual to engage in the practice of clinical laboratory science at the appropriate level (*CLS-G*, *CLS-S*, *CLS-T*, laboratory assistant, cytotechnologist, or phlebotomist).

Trainee—an individual who has not fulfilled the educational requirements to take an approved nationally recognized certification examination or who needs to obtain full-time comprehensive experience under supervision.

Waived Test—those routine technical procedures performed under or eligible for a certificate of waiver under CLIA. An illustrative list of such routine technical procedures includes:

- a. dipstick or tablet reagent urinalysis (nonautomated) for the following determination levels: bilirubin, glucose, hemoglobin, ketone, leukocytes, nitrite, pH, protein, specific gravity, or urobilinogen;
- b. fecal occult blood;
- c. ovulation tests—visual color tests for human luteinizing hormone;
- d. urine pregnancy tests—visual color comparison tests;
- e. erythrocyte sedimentation rate, nonautomated;
- f. hemoglobin—copper sulfate, nonautomated;
- g. blood glucose as determined by monitoring device approved by the Federal Drug Administration specifically for home use;
- h. spun microhematocrit;
- i. hemoglobin by single analyte instrument with self-contained or component features to perform specimen/reagent interaction providing direct measurement or readout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311–1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

Subchapter B. Licensure and Certification Requirements

§3505. Licensure or Certification Generally

On and after January 1, 1995, no individual shall act as, or perform the duties of a clinical laboratory scientist—generalist, clinical laboratory scientist—specialist, clinical laboratory scientist—technician, laboratory assistant, cytotechnologist, or phlebotomist unless such individual possesses a current license or certification issued by the board pursuant to this Chapter or

is exempt from such licensure or certification as provided by §3507.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3507. Exceptions to Licensure or Certification Requirements

A. The licensure and certification requirements of this Chapter shall not apply to:

1. clinical laboratory personnel practicing exclusively in, and in the course and scope of their employment by, a clinical laboratory operated by the United States government;
2. clinical laboratory personnel practicing exclusively in, and in the course and scope of their employment by, a nonprofit laboratory operated and maintained exclusively for instruction or research involving no individual patient or public health care service, provided the results of any examination performed in such laboratory are not used directly in the diagnosis, evaluation or treatment of human disease or disorder;
3. any physician licensed by the board to practice medicine;
4. any individual working under the direction and supervision of a physician licensed by the board in an operating room, theater, emergency room, or intensive care unit;
5. any pulmonary function technician acting within the scope of performance of the practice of respiratory therapy;
6. any clinical perfusionist acting within the scope of practice of perfusion in the support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of an individual patient;
7. any health care provider when acting within the scope of practice authorized by his or her licensure, certification or registration;
8. any individual whose duties include only the performance of waived tests, whether performed in a physician's office laboratory, a hospital clinical laboratory, or at the point of care, and which do not require the exercise of independent judgment;
9. any individual performing phlebotomy or acting as a phlebotomist employed by or acting under the direction and supervision of a physician licensed by the board, a clinic operated by a health care provider authorized by license to perform clinical laboratory testing, a hospital, a nursing home, or other licensed health care facility authorized by licensure to perform clinical laboratory testing;
10. any individual whose duties may include demonstrating or instructing, or both, the use of any automated or digital instrument, device, machine, or similar mechanical equipment and related procedures utilized to assist in the practice of clinical laboratory science, provided the results furnished by such equipment during demonstration or instruction are not used in the diagnosis, evaluation or treatment of human disease or disorder; or
11. individuals performing forensic testing and examinations of body fluids, tissues, cells, or blood solely for

the purpose of law enforcement and the state's criminal justice system.

B. Any individual who is exempt from the requirement of licensure or certification under this Chapter, but who meets the qualifications for licensure or certification under this Chapter, including any individual performing clinical procedures for analysis of nonhuman specimens, shall be considered actively engaged in the practice of clinical laboratory science and may apply for licensure or certification as provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3509. Qualifications for Licensure and Certification

A. Clinical Laboratory Scientist-Generalist. To be eligible for licensure as a clinical laboratory scientist-generalist, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

1. American Society of Clinical Pathologists (ASCP);
2. National Certification Agency (NCA);
3. American Medical Technologists (AMT); or
4. International Society of Clinical Laboratory

Technology (ISCLT) provided, however, that an applicant for licensure as a CLS-G who has, prior to January 1, 1995, successfully completed the certification examination for such clinical laboratory personnel classification developed and administered by the United States Department of Health, Education and Welfare (HEW) (predecessor to the Department of Health and Human Services) shall also be eligible for licensure as a clinical laboratory scientist-generalist.

B. Clinical Laboratory Scientist-Specialist. To be eligible for licensure as a clinical laboratory scientist-specialist, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall:

1. possess a baccalaureate or more advanced degree from an accredited college or university with a major in one of the chemical, physical or biological sciences; and

2. have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

- a. American Society of Clinical Pathologists (ASCP);
- b. National Certification Agency (NCA);
- c. American Society of Microbiology (ASM);
- d. American Association of Clinical Chemistry (AACC);
- e. American Board of Immunology (ABI);
- f. American Board of Bioanalysts (ABB); or
- g. American Board of Forensic Toxicology (ABFT).

C. Clinical Laboratory Scientist-Technician. To be eligible for licensure as a clinical laboratory scientist-technician, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized

certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

1. American Society of Clinical Pathologists (ASCP);
2. National Certification Agency (NCA);
3. American Medical Technologists (AMT); or
4. International Society of Clinical Laboratory Technology (ISCLT).

D. Cytotechnologist. To be eligible for licensure as a cytotechnologist, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall:

1. possess a baccalaureate degree from an accredited college or university, fulfill the educational requirements necessary to enroll in a school of cytotechnology, complete one full year of full-time cytotechnology experience or its equivalent in an approved school of cytotechnology, and successfully complete an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

- a. American Society of Clinical Pathologists (ASCP);

or

- b. International Academy of Cytology (IAC);

2. have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

- a. American Society of Clinical Pathologists (ASCP);

or

- b. International Academy of Cytology (IAC).

E. Laboratory Assistant. To be eligible for licensure as a laboratory assistant, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall:

1. possess a high school diploma or its equivalent;

2. document to the board, in a form sufficient to and upon the recommendation of the committee, training as evidence of competency in the basic practice of clinical laboratory science. For this purpose, successful completion of the certification examinations for laboratory assistants offered by the International Society of Clinical Laboratory Technology and the American Society of Clinical Pathologists shall be deemed a conclusive, but not the exclusive, means of documenting competency in the basic Practice of Clinical Laboratory Science;

3. prior to the performance of moderate complexity testing as provided in 42 CFR Part 493, have provided to the applicant's employer or laboratory director documentation of training appropriate for the testing performed. Such documentation shall ensure that the applicant has all of the following:

- a. the skills required for proper specimen collection, including patient preparation, if applicable, labeling, handling, preservation or fixation, processing or preparation, transportation and storage of specimens;

- b. the skills required for implementing all standard laboratory procedures;

- c. the skills required for performing each test method and for proper instrument use;

- d. the skills required for performing preventive maintenance, troubleshooting and calibration procedures related to each test performed;

- e. a working knowledge of reagent stability and storage;

- f. the skills required to implement the quality control policies and procedures of the laboratory;

- g. an awareness of the factors that influence test results; and

- h. the skills required to assess and verify the validity of patient test results through the evaluation of quality control sample values prior to reporting patient test results; and

4. have provided to the committee or board, upon good cause shown, the documentation of training appropriate for the moderate complexity testing to be performed as provided in §3509.E.3.

F. Phlebotomist. To be eligible for certification as a phlebotomist, an applicant, in addition to satisfaction of the procedural requirements for certification under this Chapter, shall:

1. have successfully completed a certification examination approved or written and administered by the board and the committee following completion of a training program for phlebotomists satisfactory to the board, upon recommendation of the committee, consisting of a minimum of 20 lecture hours or adequate practical hours to ensure that the applicant possesses:

- a. the skills required for proper specimen collection, including patient identification and preparation, labeling, handling, preservation, processing, transportation, and storage of specimens;

- b. the skills required for selecting the appropriate type of tube to collect for each test;

- c. the skills required for performing preventive maintenance, troubleshooting and calibration procedures related to each test performed;

- d. a working knowledge of reagent stability and storage;

- e. the skills required to perform quality control procedures;

- f. an awareness of the factors that influence test results;

- g. a working knowledge of the actions of various anticoagulants;

- h. a working knowledge of the anatomy and physiology of blood vessels and the circulatory system and blood;

- i. a working knowledge of the components and functions of those components of blood to include, RBC, WBC, platelets, and plasma or serum;

- j. a working knowledge of primary hemostasis;

- k. a working knowledge of laboratory safety to include OSHA standards for handling bloodborne pathogens;

- l. a working knowledge of the various isolation procedures and infection control;

- m. a working knowledge of various medical terms and laboratory tests;

- n. a working knowledge of the requirements of special laboratory tests;
- o. a working knowledge of the clinical laboratory;
- p. a working knowledge of the major tests performed in the clinical laboratory and specimen requirements;
- q. a working knowledge of aseptic techniques and methods of sterilization; and
- r. completion of 100 successful venipunctures and 25 successful capillary collections; or

2. have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

- a. American Society of Clinical Pathologists (ASCP);
- b. National Certification Agency (NCA);
- c. American Society of Phlebotomy Technicians (ASPT);
- d. National Phlebotomy Association (NPA);
- e. American Medical Technologists (AMT);
- f. American Association of Blood Banks;
- g. National Allied Health Test Registry (NAHTR); or
- h. International Academy of Phlebotomy Science (IAPS).

G. Annual Review of Certifying Examinations. The committee and the board shall annually review the eligibility criteria for examination by the named organizations specifically enumerated in this Section and, in the event that additional requirements are mandated by such organization which are inconsistent with the provisions of the law, including, but not limited to either the elimination of work experience (the educational career ladder track) or the attainment of any educational degree as an element of eligibility in order to take a certification examination, the committee and the board shall develop an alternative method of providing applicants with an appropriate certifying examination consistent with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3511. Licensure or Certification Without Examination

Notwithstanding the examination requirements prescribed and required by §3509, provided that application is made within 12 months of the effective date of these rules, any individual who desires to be licensed as a CLS-G, CLS-S, CLS-T, cytotechnologist, or laboratory assistant may qualify for licensure and shall be issued the appropriate license without having to successfully complete an approved nationally recognized certification examination, upon application on a form provided by the board, payment of the required license fee, and submission of evidence of competency, which may include but does not require successful completion of an approved nationally recognized certifying examination, prior to the effective date of this Chapter, satisfactory to the committee and the board that the applicant:

- 1. has been actively engaged in the category for which the license is requested for at least two full years within the three years immediately prior to the effective date of these rules;

- 2. has ceased to engage in the practice of clinical laboratory science, but was actively engaged in such practice in the category for which license is requested for at least two full years immediately prior to inactivity, provided the applicant has not been inactive more than five years; or

- 3. was eligible for licensure without examination in accordance with either of the preceding Subparagraphs 1 or 2 of this §3511 on the effective date of these rules and at that time was in the military forces of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3513. Reciprocity

The board, upon recommendation of the committee, shall license, without examination, and upon payment of the prescribed license fee, an applicant for licensure who is duly licensed in the same or comparable category for which he or she is applying for licensure in this state under the laws of another state, territory, commonwealth, or the District of Columbia, if the qualifications for licensure of such applicant in such category are at least equal to the qualifications provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3515. Trainee License

A. Generally. A trainee who engages in the practice of clinical laboratory science in any category for which a license is required shall be required to apply for and obtain a trainee license in the category corresponding to the work performed. All work performed by a trainee under a trainee license shall be under the direct supervision of clinical laboratory personnel licensed as either CLS-G, CLS-S or cytotechnologist.

B. Exception. The preceding Subsection shall not apply to a trainee who engages in the practice of clinical laboratory science exclusively through an approved school or training program.

C. Licensure Period; Renewal. A trainee license issued in accordance with these regulations shall be effective for the calendar year beginning January 1 and ending December 31 in which it is issued, and may be renewed for up to three additional years provided the trainee remains enrolled in an approved school or training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3517. Returning Practitioners

A. Generally. An applicant who has been certified in the practice of clinical laboratory science by passing an approved Nationally recognized certification examination, but who has not engaged in the practice of clinical laboratory science within the 10 years preceding application and who has not fulfilled the continuing education requirements of this Chapter,

shall be granted a trainee license in the category for which the applicant is otherwise qualified.

B. Eligibility for Full Licensure. A returning practitioner who has been granted a trainee license in accordance with §3517.A shall be eligible and may apply for full licensure upon completion of 12 continuing education hours as provided in §3533 of these rules and documentation of competency by the director of the retraining facility or his or her designee. Supervised retraining must be under the direct supervision of clinical laboratory personnel licensed as either CLS-G, CLS-S or cytotechnologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3519. Temporary License or Certificate

A. Generally. Applicants that qualify by education, experience or training but have not taken or passed an approved nationally recognized certification examination may be granted a temporary license or temporary certificate that will allow that individual to engage in the practice of clinical laboratory science at the appropriate level (CLS-G, CLS-S, CLS-T, cytotechnologist, or phlebotomist). The temporary license or certificate will be valid for six months.

B. Failure to Pass Examination; Renewal. A temporary license or temporary certificate issued pursuant to this Section may be renewed one time upon failure to pass an approved nationally recognized certification examination. Such renewal shall be effective for six months. Applicants who fail to pass the appropriate approved nationally recognized certification examination a second time may not renew their temporary license or temporary certificate. Such applicants shall:

1. refrain from the practice of clinical laboratory science until successful completion of an appropriate approved nationally recognized certification examination;

2. complete a supervised retraining program and, upon submitting evidence satisfactory to the board of completion of such program, apply for a new temporary license or temporary certificate in the same category; or

3. apply for a temporary license or temporary certificate for the practice of clinical laboratory science at a lower level of complexity.

C. Failure to Appear. Applicants who do not appear to take an approved nationally recognized certification examination for which they are registered shall not receive a second temporary license or temporary certificate and the temporary license or temporary certificate held shall be invalid as of that date (unless extension is approved by the board, upon recommendation of the committee, due to mitigating circumstances). Such applicants may, however:

1. reapply for full licensure upon successful completion of an approved nationally recognized certification examination; or

2. apply for a temporary license or temporary certificate for the practice of clinical laboratory science at a lower level of complexity.

D. Foreign-Trained Applicants. An applicant basing eligibility for a temporary license or temporary certificate upon a degree from a foreign university must have his or her

transcript validated and evaluated by an acceptable foreign transcript evaluation agency listed as an appendix to this Chapter. That evaluation must be submitted to the national certifying agency offering the approved nationally recognized certification examination for which the applicant wishes to sit. The committee will not evaluate or validate foreign transcripts. Upon notification of acceptance to sit for such examination, the applicant may apply for a temporary license or temporary certificate in the corresponding category. A copy of the letter stating that the applicant is eligible to sit for an approved nationally recognized certification examination must accompany the application for temporary license or temporary certificate. Agencies approved by and acceptable to the board and the committee for purposes of validating and evaluating transcripts from foreign universities are listed in an Appendix to these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3521. Reinstatement of Lapsed License or Certificate

An individual whose license has lapsed and who has not been actively engaged in the practice of clinical laboratory science during the preceding period of not more than seven years may have his or her license or certificate reinstated upon payment of the renewal fee and the delinquent fee provided in §3529 and submission of evidence satisfactory to the board that during the lapsed period he or she fulfilled the continuing education requirements of this Chapter. An individual whose license has lapsed and who has not been actively engaged in the practice of clinical laboratory science for a period of more than seven years, but not more than ten years, shall be subject to the provisions in §3517 provided that any such individual may petition the committee, for good cause shown, for a reduction or waiver of the continuing education and/or supervised retraining requirements of §3517.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

Subchapter C. Procedures for Obtaining Licensure or Certification

§3523. Issuance

If an applicant meets the qualification requirements of this Chapter for the category in which the license or certificate is requested and otherwise complies with the requirements of this Chapter, the board shall issue the applicant a license or certificate for the practice of clinical laboratory science within the specific category of licensure or certification for which the applicant qualifies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§ 3525. Application

A. General Requirements. Application for licensure or certification under this Chapter shall be made on a form

supplied by the committee. Such form, and any supporting documentation required to be submitted therewith, shall provide information sufficient to assure the applicant satisfies the minimum qualifications for the category of licensure or certification applied for.

B. Applicant for Licensure as CLS-G, CLS-S, CLS-T or Cytotechnologist. Each application for licensure as a CLS-G, CLS-S, CLS-T or cytotechnologist shall be accompanied by all of the following:

1. a recent photograph for identification;
2. the appropriate fee;
3. a copy of the registration or certification card indicating successful completion of an approved nationally recognized certification examination;
4. for non-U.S. citizen applicants, proof of lawful entry into the country; and
5. if the requested licensure or certification is based on reciprocity as provided in §3513, a statement from the licensing authority of the other state attesting to the licensure status of the applicant in the other state. Such statement shall be issued directly to the committee from the licensing authority of the other state.

C. Application for Licensure as a Laboratory Assistant. Each application for licensure as a laboratory assistant shall be accompanied by all of the following:

1. a recent photograph for identification;
2. the appropriate fee;
3. evidence of completion of a satisfactory training program;
4. copy of a high school diploma or equivalent; and
5. if moderate complexity testing is to be performed, documentation of competency in the area of testing to be performed.

D. Application for Certification as a Phlebotomist. Each application for certification as a phlebotomist shall be accompanied by all of the following:

1. a recent photograph for identification;
2. the appropriate fee; and
3. evidence of completion of a satisfactory training program and successful completion of a board-approved or administered certifying examination or successful completion of an approved nationally recognized certification examination.

E. Multiple Licensure. An applicant may be licensed or certified in each category for which he or she is qualified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3527. Expiration and Renewal of Licenses and Certificates

A. Expiration. Every license or certificate issued by the board under this Chapter, the expiration date of which is not stated thereon or otherwise provided by these rules, shall expire, and thereby become null, void and to no effect, on the last day of the year in which such license or certificate was issued.

B. Continuation Pending Renewal. The timely submission of a properly completed application for renewal of a license or

certificate, as provided by Subsection C of this Section, shall operate to continue the expiring license or certificate in full force and effect pending the board's issuance or refusal to issue the renewal license or certificate. The committee may recommend and the board may continue a license or certificate in effect, without application for renewal or payment of the renewal fee for any clinical laboratory personnel licensed or certified under this Chapter while the individual is in active military service of the United States or any of its allies, upon notification by the licensee to the committee of such service.

C. Renewal. Every license and certificate issued by the board under this Chapter shall be renewed annually on or before the date of its expiration by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed by §3529 of this Chapter. An application for renewal of license or certificate form shall be mailed by the board to each person holding a license or certificate issued under this Chapter on or before November 15 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3529. Fees

A. General Provisions. Except as provided in Subsection B of this Section, the fee for obtaining or renewing a license or certificate as provided in this Chapter shall be as follows:

1. clinical laboratory scientist (all categories): \$50;
2. cytotechnologist: \$50;
3. laboratory assistant: \$25;
4. phlebotomist: \$25.

B. Exceptions

1. Delinquent Fee. In addition to the fee prescribed by §3529.A, any individual who fails to renew his or her license or certificate by January 1 shall be charged a delinquent fee of \$50.

2. Duplicate Fee. The fee for obtaining a duplicate license or certificate shall be \$10.

3. Temporary License or Certificate. The fee for obtaining a temporary license or temporary certificate shall be the amount of the fee prescribed by §3529.A for the category for which such license or certificate is to be issued.

4. Trainee License. If an individual is required to obtain or renew a trainee license in accordance with this Chapter, the fees for obtaining or renewing such trainee license shall be the fee prescribed by §3529.A for the category under which such trainee license is issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

Subchapter D. Continuing Education

§3531. General Requirement

All clinical laboratory personnel licensed or certified under this Chapter shall satisfy the continuing education requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3533. Minimum Hours

Effective January 1, 1995, every person licensed or certified under this Chapter shall complete a minimum of 12 contact hours of continuing education (1.2 Continuing Education Units, or CEUs) each calendar year. No carryover credit shall be allowed for excess credit earned in one calendar year to the next calendar year. One CEU equals 10 contact hours of participation in an organized education experience, under responsible sponsorship, capable direction, and qualified instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3535. Credit Hours Awarded

Except as otherwise provided, one hour of continuing education credit shall be awarded for the first contact hour of a continuing education program. Thereafter, for programs lasting longer than one hour, one continuing education hour shall be awarded for every 50 contact minutes. No credit shall be awarded for partial completion of a program (i.e., no credit shall be awarded for one hour attendance at a three-hour continuing education program).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3537. Sources of Continuing Education

A. Deemed Approved. The following sources of continuing education shall be deemed approved for purposes of satisfying the continuing education requirements of this Chapter without prior submission to the committee or board:

1. professional meetings sponsored by approved professional organizations;
2. audio conferences sponsored by approved professional organizations;
3. teleconferences and videoconferences sponsored by approved professional organizations; and
4. self-study courses sponsored by approved professional organizations;
5. training programs sponsored by medical technology instrument manufacturers;
6. coursework relevant to the practice of clinical laboratory science at an accredited college or university. A completed full-credit course shall qualify for six Category 2 continuing education hours. A course qualifying for less than full-credit shall be pro-rated and continuing education credit awarded appropriately;
7. publication of an article in a professional journal. A published article shall qualify for six continuing education hours;
8. presentation of a poster or program at a local, state, regional, national or international meeting or program, with a poster presentation qualifying for two continuing education hours and other presentations qualifying for twice the credit

for attendees of the presentation, but without credit for repeat poster sessions or presentations;

9. laboratory sessions such as role playing, buzz sessions, product preparation or a "wet workshop" that have been approved by the board, upon recommendation of the committee, for continuing education credit, with participants in such sessions credited with one hour of continuing education credit in accordance with §3535; and

10. continuing education programs sponsored and presented by the committee.

B. Other Continuing Education Sources. In addition to the sources of continuing education deemed approved for continuing education credit without prior submission to the committee or board, such other programs or events that satisfy the standards set forth in §3539 and have been submitted to the board for approval in accordance with the procedures provided in §3541 shall, upon recommendation of the committee, be approved for continuing education credit as a continuing education source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3539. Standards for Continuing Education

Any continuing education offering submitted to the board for consideration as an approved source of continuing education credit shall meet the following standards:

1. provide a structured learning experience;
2. provide appropriate subject matter reflecting the professional educational needs for continuing competency in the practice of clinical laboratory science from one or more of the following subject areas:
 - a. clinical laboratory practice areas;
 - b. legal aspects of laboratory medicine;
 - c. educational methodology as utilized in the clinical laboratory; or
 - d. laboratory safety, blood borne pathogens, and chemical hygiene;
3. have written learning objectives, stated in terms of actions, conditions, and degree related to level of audience (Basic, Intermediate, Advanced);
4. have a set time schedule and be at least one hour in length;
5. have qualified faculty with background and experience necessary to teach the subject. Copies of credentials shall be available to the board upon request;
6. include assessment and evaluation mechanisms to ensure that participants have achieved a specified level of performance and to provide for evaluation of instructional methods, facilities, and resources used;
7. make available a brochure or flyer containing the following information:
 - a. the program objectives stated in terms of what the participant will learn or be able to do as a result of the program;
 - b. the program level:
 - i. Basic: entry level; no prior knowledge of subject necessary.

ii. Intermediate: refresher course; some basic knowledge required; for the bench technologist with several years of experience.

iii. Advanced: highly technical: for those with current skills/ knowledge; for those with at least two years experience in specialty area;

- c. program schedule;
- d. fee for the program if applicable;
- e. number of CEUs or continuing education hours granted;
- f. faculty credentials;
- g. include the following statement:

"[Provider Name] is approved as a Provider of continuing education programs in the clinical laboratory sciences by the Clinical Laboratory Personnel Committee to the Louisiana State Board of Medical Examiners."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3541. Procedures for Obtaining Approval as a Continuing Education Source

A. Single Program Approval. A program sponsor may be approved for a single program pursuant to the following procedures:

1. Not less than 120 days prior to the scheduled date of the proposed program, the program sponsor shall request approval of the program as a source of continuing education credit from the committee. Such request shall be submitted on a form recommended by the committee and approved by the board.

2. The committee shall review and evaluate the request for compliance with the standards for continuing education provided in §3539.

3. The committee shall determine whether the proposed program complies with the standards for continuing education in all material respects. If the committee determines that the program does not comply with the standards for continuing education, the program sponsor shall be so notified in writing within 60 days of the committee's receipt of the form requesting approval. If the committee determines that the program complies with the standards for continuing education, then committee shall recommend to the board that the program be approved as a source of continuing education credit.

4. The program sponsor shall be notified in writing of the board's approval or nonapproval of the program as a source of continuing education credit within 60 days of the committee's receipt of the form requesting approval. If the program is not approved, the notice shall include the reason or reasons for nonapproval.

5. Upon approval, the program shall be assigned a program identification number. The program sponsor shall be notified of the identification number and reference such number on all correspondence with the committee or board concerning that program.

6. The program sponsor shall provide each participant in the program with an authenticated certificate or letter of attendance.

7. The program sponsor shall maintain records of the program, including content, faculty, attendance, assessment and evaluation for a period of not less than two years.

8. The program sponsor shall provide satisfactory proof of any individual's attendance at the program upon the committee's request.

B. Multiple Program Approval. A program sponsor may be approved for multiple program offerings. An approved sponsor need not submit each program offered for approval, but each program shall be considered an approved source of continuing education credit. The following procedures shall be applicable for approval of a sponsor as a sponsor or multiple programs for continuing education credit:

1. The sponsor shall request approval as a sponsor of multiple continuing education programs from the committee. Such request shall be submitted on a form recommended by the committee and approved by the board.

2. The sponsor shall certify that each continuing education program offered shall comply with the standards for continuing education provided in §3539.

3. The sponsor shall designate an individual who shall be responsible for continuing education programs for clinical laboratory personnel.

4. The sponsor shall establish a comprehensive plan for ongoing evaluation of the content, faculty and assessment tools used for each program and for compliance of all continuing education offerings with the standards for continuing education provided in §3539. Such plan shall be submitted to the committee for review with the sponsor's request for approval.

5. The sponsor shall certify that each participant in each program will be provided with an authenticated certificate or letter of attendance.

6. The sponsor shall certify that records of each continuing education program offered, including content, faculty, attendance, assessment and evaluation shall be maintained for a period of not less than two years.

7. The sponsor shall certify that satisfactory proof of any individual's attendance at a program shall be maintained for not less than two years and shall be available to the committee on request.

8. The committee shall determine whether the sponsor has complied with the requirements for approval as a sponsor of multiple programs for continuing education credit. If the committee determines that the sponsor has not complied with such requirements, the sponsor shall be so notified within 60 days of receipt of the form requesting approval. If the committee determines that the sponsor has complied with such requirements, the committee shall recommend to the board that the sponsor be approved as a sponsor for multiple continuing education programs.

9. The sponsor shall be notified in writing of the board's approval or nonapproval of the sponsor as a sponsor for multiple continuing education programs within 90 days of the committee's receipt of the form requesting approval. If the

sponsor is not approved, the written notice shall include the reasons for nonapproval.

10. Upon approval, the sponsor shall be assigned a sponsor identification number. The sponsor shall be notified of the identification number and reference such number on all correspondence with the committee or the board.

11. Approval of a sponsor for multiple continuing education programs may be for a period not to exceed 36 months.

12. Approval of a sponsor for multiple continuing education programs shall be subject to periodic review. At the committee's request, the sponsor shall submit records and materials from its continuing education programs to assure compliance with these requirements. Approval of the sponsor may be withdrawn upon a finding by the committee of noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

§3543. Proof of Compliance with Continuing Education Requirements

A. Form. Each applicant for renewal of licensure or certification shall certify his or her compliance with the continuing education requirements of this Chapter on a form recommended by the committee and approved by the board. Such form shall provide for submission of documentation supporting the applicant's statement of compliance.

B. Audits. Random audits of applications for license or certificate renewals shall be conducted by the committee or the board, at their discretion, to verify compliance with the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20: (November 1994).

Appendix

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**APPROVED
FOREIGN TRANSCRIPT
EVALUATION AGENCIES**
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As Approved by the
Louisiana State Board of Medical Examiners
as of November 20, 1994
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Center of Applied Research, Evaluation, and Education, Inc.
P.O. Box 20348
Long Beach, CA 90801
Telephone: 310-430-1105

Education Evaluators International, Inc.
P.O. Box 5397
Los Alamitos, CA 90721
Telephone: 310-431-2187
Facsimile: 310-493-5021

Education International
29 Denton Road
Wellesley, MA 02181
Telephone: 617-235-7425
Facsimile: 617-235-6831

Educational Credential Evaluators, Inc.
P.O. Box 92970
Milwaukee, WI 53202-0970
Telephone: 414-289-3400
Facsimile: 414-289-3411

Foreign Academic Credentials Service, Inc.
P.O. Box 307
Glen Carbon, IL 62034
Telephone: 618-288-5892

Foundation for International Services, Inc.
3123 Eastlake Avenue East
Seattle, WA 98102-3875
Telephone: 206-328-0260
Facsimile: 206-726-0528

International Consultants of Delaware, Inc.
109 Barksdale Professional Center
Newark, DE 19711
Telephone: 302-737-8715
FAX 302-737-8756

International Education Research Foundation, Inc.
P.O. Box 66940
Los Angeles, CA 90066
Telephone: 310-390-6276
Facsimile: 310-397-7686

Josef Silny and Associates, Inc.
P.O. Box 248233
Coral Gables, FL 33124
Telephone: 305-666-0233
Facsimile: 305-666-4133

World Education Services, Inc.
P.O. Box 745
Old Chelsea Station
New York, NY 10013-0745
Telephone: 212-966-6311
Facsimile: 212-966-6395

Delmar Rorison
Executive Director

9411#040

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Reportable Diseases (Chapter II)

Under the authority of R.S. 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 II of the Louisiana *Sanitary Code* by adding the following diseases to the list of Reportable Diseases: *Escherichia coli* 0157:H7, Hemolytic-Uremic Syndrome, Hepatitis B, Acute Hepatitis. Hemophilia and Galactosemia are added to the list of other Reportable Conditions. A nonsubstantive change is the addition at the end of section 2:025 of the Immunization Program Office address and telephone number for making the Immunization Schedule available to the public.

Described below are the reasons for adding these diseases and conditions to the list of Reportable Diseases and Other Conditions.

Escherichia coli 0157:H7 is a recently-recognized important cause of severe gastroenteritis and of Hemolytic-Uremic Syndrome, which is a serious renal disease and can be fatal. The organism has been found as a contaminant in meat and other foods. Improved epidemiologic information about cases of infection with the organism or cases of the syndrome that it causes can lead to specific measures to prevent contamination of food, and thereby prevent serious illness. This problem can be identified by culture of the organism *Escherichia coli* 0157:H7 or by symptoms seen in the disease hemolytic-uremic syndrome. Because many laboratories are not equipped to culture this organism, and because the organism may no longer be present when hemolytic-uremic syndrome occurs, it is necessary to make both the organism and the disease reportable.

Hepatitis B can cause an acute infection or a chronic infection. Persons with chronic hepatitis B are referred to as "carrying" the virus. Pregnant women who are "carriers" of hepatitis B can pass the infection to their children if the children are not immunized against hepatitis B immediately after birth. The Office of Public Health tracks pregnant women who carry hepatitis B to insure that this immunization takes place. This program relies on the reporting of information about these women.

Acute hepatitis can be caused by virus types A, B, C, and others. Previous reportable disease lists have simply listed "hepatitis" as reportable. This list clarifies that the type of hepatitis must be reported, and that only acute hepatitis is reportable. Chronic hepatitis is not reportable with the exception of hepatitis B carriage in pregnant women, as described above.

Hemophilia is a congenital blood disease characterized by severe bleeding which can cause crippling and be life threatening. The requirement of reporting will ensure persons receive proper care, prevent major complications (i.e., HIV hepatitis B, joint disease), indicate the prevalence of the disease in the state and fulfill CDC recommendations.

Galactosemia occurs due to a genetic inability to metabolize galactose, resulting in damage to the central nervous system, liver, eyes and kidneys. Early detection and treatment which reportable status should promote can prevent many of the severe acute effects of the debilitating and life threatening disease.

Printed below are the pertinent sections of Chapter II which reflect these changes.

Sanitary Code State of Louisiana

Chapter II: The Control of Disease

* * *

2:003 The following diseases are hereby declared reportable:

Acquired Immune Deficiency Syndrome (AIDS)	Malaria
Amebiasis	Measles (rubeola)*
Anthrax	Meningitis, <i>Haemophilus influenzae</i>
Aseptic meningitis	Meningococcal infection (including meningitis)*
Blastomycosis	Mumps
Botulism*	Mycobacteriosis, atypical***
Brucellosis	Ophthalmia neonatorum**
Campylobacteriosis	Pertussis (whooping cough)
Chancroid**	Plaque*
Chlamydia infection**	Poliomyelitis
Cholera*	Psittacosis
Diphtheria*	Rabies (animal and man)
Encephalitis (specify primary or post-infectious)	Rocky Mountain Spotted Fever
Erythema infectiosum (5th disease)	Rubella (German measles)*
<i>Escherichia coli</i> type 0157:H7	Rubella (congenital syndrome)
Foodborne illness*	Salmonellosis
Genital warts**	Shigellosis
Gonorrhea**	Syphilis**
Granuloma Inguinale**	Tetanus
Hemolytic-Uremic Syndrome	Trichinosis
Hepatitis, Acute (specify type A,B,C or other)	Tuberculosis***
Hepatitis B carriage in pregnancy	Tularemia
Herpes (genitalis/neonatal)**	Typhoid fever
Human Immunodeficiency Virus (HIV)	Typhus fever, murine (fleaborne, endemic)
Legionellosis	Vibrio infections (other than cholera)
Leprosy	Yellow Fever*
Leptospirosis	
Lyme Disease	
Lymphogranuloma venereum*	

Report cases on green EPI-2430 card unless indicated otherwise below.

*Report suspected cases immediately by telephone. In addition, all cases of rare or exotic communicable diseases and all outbreaks shall be reported.

**Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

***Report on CDC 72.5 (f. 5.2431) card.

All reportable diseases and conditions other than the venereal diseases, tuberculosis and those conditions followed by asterisks should be reported on an EPI-2430 card and forwarded to the local parish health unit or the Epidemiology Section, P.O. Box 60630, New Orleans, Louisiana 70160, phone (504) 568-5005.

Other Reportable Conditions

Cancer	Severe undernutrition
Complications of abortion	(severe anemia, failure to thrive)
Congenital hypothyroidism*****	Sickle cell disease*****
Galactosemia*****	(newborns)
Hemophilia*****	Spinal cord injury*****
Lead poisoning	Sudden infant death syndrome (SIDS)
Phenylketonuria*****	
Reye's Syndrome	
Severe Traumatic Head Injury*****	

Report cases on an EPI-2430 card unless indicated otherwise below:

****Report on DDP3 form: preliminary telephone report from emergency room encouraged (504) 568-2509.

*****Report to the Louisiana Genetic Diseases Program Office by telephone (504) 568-5070 or FAX (504) 568-7722.

* * *

2:025 Any child 18 years or under admitted to any day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Office of Public health schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any day care center shall report to the state health officer through the health unit of the parish or municipality where such day care center is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the state health officer. When an outbreak of a communicable disease occurs in a day care center or residential facility, the operator of said day care center or residential facility shall comply with outbreak control procedures as directed by the state health officer.

A copy of the current Office of Public health immunization schedule can be obtained by writing to the Immunization Program, Office of Public Health, 4747 Earhart Boulevard, Suite 107, New Orleans, Louisiana 70125 or by telephone (504) 483-1905 or toll free 1-800-251-2229.

* * *

Rose V. Forrest
Secretary

9411#056

RULE

Department of Health and Hospitals Office of the Secretary

Services and Facilities for Other than State General Hospitals (LAC 48:I.2109)

The Department of Health and Hospitals, Office of the Secretary, is amending LAC 48:I.2109, Regulations for Services and Facilities Other than State General Hospitals. This Chapter of the Louisiana Administrative Code regulates the liability limitation schedule for DHH provided services. This amendment is being repealed and repromulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et. seq., and R.S. 36:259.

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 1. General

Chapter 21. Liability Limitation Schedule for DHH Provided Services

§2109. Services and Facilities Other than State General Hospitals

A. Long-term Inpatients Receiving Unearned Income

1. Facilities treating patients who receive unearned income, are not eligible under Title XIX regulations and have no dependents as defined by the United States Internal Revenue Service shall arrange to have those funds paid directly to the facility.

2. The unearned income will not be applied to the cost of the first 90 days of care but will be placed into a patient account fund.

3. For any treatment received by the patient subsequently to the first 90 days of care, the treating facility shall apply any forthcoming unearned income to the cost of care, less a personal needs allowance. Any funds over the cost of care shall be placed into the patient account fund on behalf of the patient.

4. Upon discharge of the patient, the balance of the funds remaining in the patient account shall be paid to the patient or the responsible person as provided by law.

5. If the facility is unable to have the unearned income paid directly to the facility, billing shall be made in accordance with this policy.

NOTE: Items 2 and 3, above, are applicable to Psychiatric Hospitals only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:259 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 15:92 (February 1989), repealed and repromulgated, LR 17:208 (December 1991), amended LR 20: (November 1994).

Rose V. Forrest
Secretary

9411#057

RULE

Department of Labor Office of Workers' Compensation

Hearing Rules (LAC 40:I.Chapter 21)

In accordance with the provisions of R.S. 49:950 et seq., the 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 adoption and amendment of these rules is necessary because injured workers are having difficulty getting the Social Security Administration to restore full benefits when the workers' compensation payor takes the offset allowed by federal law. The changes will give the workers' compensation judges control of the process. The Office of Workers' Compensation is also having difficulty

securing doctors to perform independent medical exams because the current rules makes them subject to subpoena and depositions. The new rules will provide that the doctors may satisfy their obligation by filing the appropriate reports.

Title 40

Labor and Employment

Part I. Workers' Compensation Administration

Chapter 21. Hearing Rules

§2113. Forms - Preparation and Adoption - Use

A. The Office of Workers' Compensation shall prepare and adopt such forms for use in matters before the Office of Workers' Compensation as it may deem necessary or advisable. Whenever Office of Workers' Compensation forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to any district office or the main office and may be reproduced by the parties as needed.

B. The following forms have been adopted by the Office of Workers' Compensation for use in matters before the Workers' Compensation Judges:

Form LDOL-WC-1004 - Request for Social Security Disability Information and Calculation of Reverse Offset

Form LDOL-WC-1005 - Motion and Order for Recognition of Right to Social Security Reverse Offset

Form LDOL-WC-1006 - Subpoena for Social Security Medical Information

Form LDOL-WC-1007 - Employer's Report of Occupational Injury or Disease

Form LDOL-WC-1008 - Disputed Claim Form

Form LDOL-WC-1011 - Settlement

Form LDOL-WC-1015 - Request for Independent Medical Examination

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1306, 1310, 1310.1, and 1310.3.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), Repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 19:350 (March, 1993), amended LR 20: (November 1994).

§2131. Conclusion of Informal Mediation Conference

* * *

C. Following a mediation conference at which agreement is reached on all issues in dispute, a report embodying the agreement shall be issued to the parties and the Workers' Compensation Judge within five days thereof. The report may require dismissal of the claim or the filing of an LDOL Form 1011 within a specified period of time. Failure to timely comply with the agreement will result in issuance of citations to all defendants. When all issues in dispute are resolved at the first mediation conference, the Office of Workers' Compensation shall waive payment of the \$30 filing fee.

D. Service of Process. If any proper party defendant is present or represented at the informal mediation conference, formal citation and service of process shall be made upon that defendant or its representative at that time. Citation and service of process shall be proper upon any representative of the defendant appearing at the mediation conference. The affidavit of the mediator in any subsequent proceeding shall be

prima facie evidence that service has been made in accordance with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.2, and 1310.3.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 19:350 (March, 1993), amended LR 20: (November 1994).

§2133. Failure to Attend Informal Mediation Conference

If any party fails to attend in informal mediation conference after due notice, the Workers' Compensation Judge, upon report from the Workers' Compensation Mediator, shall fine the delinquent party an amount not to exceed \$500, which shall be immediately due and payable to the Office of Workers' Compensation Administrative Fund. In addition, the Workers' Compensation Judge may assess against the party failing to attend, costs and reasonable attorney's fees incurred by any other party in connection with the conference. If the plaintiff fails to appear after due notice, the Workers' Compensation Judge may dismiss the plaintiff's case without prejudice. Any appeal from penalties assessed under this Section shall be made in writing to the Workers' Compensation Judge and shall be referred to the merits of the dispute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.2, and 1310.3.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 19:350 (March, 1993), amended LR 20: (November 1994).

§2141. Discovery and Attendance of Witnesses

The hearing process shall be available to aid any party in pursuit of discovery and to compel attendance of witnesses or production of evidence. The Workers' Compensation Judge on his/her own motion at any conference may order the production of discoverable material and make any other order facilitating discovery. Impeachment evidence shall not be discoverable material and a party shall not be required to disclose impeachment evidence, including but not limited to witnesses, documents, photographs or films. Copies of discovery documents are to be mailed to all parties by certified mail, return receipt requested, and shall not be filed in the record of the proceedings unless required pursuant to Louisiana Code of Civil Procedure Article 1474(C) or ordered by the Workers' Compensation Judge.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.2, 1310.14, and 1310.15.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 19:350 (March, 1993), amended LR 20: (November 1994).

§2142. Independent Medical Examinations

A. Any party wishing to request an independent medical examination of the claimant pursuant to LSA-R.S. 23:1123 shall be required to make its request at or prior to the pre-trial conference. Requests for independent medical examinations made after that time shall be denied except for good cause shown.

B. Physicians performing independent medical exams pursuant to LSA-R.S. 23:1123 shall be required to prepare and send to the Medical Services Section of the Office of Workers' Compensation a verified or declared report of the examination within 30 days after its occurrence. If a verified or declared report is not submitted within the time set out in this Subsection, the independent medical examiner shall be subject to subpoena by any party for either deposition or trial.

C. The verified or declared report submitted by the IME Doctor shall contain the following, where applicable:

1. a restatement of the medical and/or legal issues the physician was asked to address;

2. a detailed summary of the basis of the doctor's opinion, including but not limited to a listing of reports or documents reviewed in formulating that opinion;

3. the medical treatment and physical rehabilitative procedures which have already been rendered and the treatment, if any, which the physician recommends for the future, together with reasons for the recommendation;

4. any other conclusions required by the scope of the independent medical examination, together with reasons for the conclusion reached; and

5. the report itself must be signed by the physician (signature stamps will not be acceptable) and be verified or contain a written declaration, made under the penalty of perjury that the report is true. The substance of the following form of declaration shall be used: "I declare under penalty of perjury that I have examined this report, and to the best of my knowledge and belief, all statements contained herein are true, correct and complete."

D. If a physical examination of the employee was conducted, the verified report shall contain the following additional information:

1. a complete history of the claimant, including all previous relevant or contributory injuries with a detailed description of the present injury;

2. the complaints of the employee;

3. a complete listing of tests and diagnostic procedures conducted during the course of the examination; and

4. the physician's findings on examination, including but not limited to a description of the examination and any diagnostic tests and X-rays.

E. When the independent medical examiner's opinion is presented within 30 days in the format required in §2142.B, the independent medical examiner shall not be subject to subpoena or deposition either for discovery or at trial.

F. Objections to the independent medical examination shall be made on form LDOL-WC-1008, and shall be set for hearing before a Workers' Compensation Judge within 30 days of receipt. No mediation shall be scheduled on disputes arising under this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20: (November 1994).

§2150. Subpoenas

A. Subpoenas issued in connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided by law. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be cancelled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena.

B. In order to be enforceable, subpoenas for hearing shall be served seven days prior to the scheduled hearing date; subpoenas to compel attendance of medical experts shall be issued 14 days prior to hearing. Subpoenas for hearing may be issued after expiration of these time limits only by leave of court for good cause shown.

C. No official of the Social Security Administration shall be subject to subpoena under these rules.

D. When it is necessary for any party to request medical information concerning a worker from the Social Security Administration, that request shall be made on Form LDOL-WC-1006, and shall bear the signature of the worker evidencing the worker's consent to the release of this information, or shall have attached a certified copy of the worker's signature as shown on the disputed claim form LDOL-WC-1008, authorizing release of medical information.

E. No independent medical examiner who has filed a report in accordance with the provisions of §2142.E of these rules shall be subject to subpoena.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20: (November 1994).

§2157. Pretrial Procedure

* * *

D. Counsel who have prepared and submitted a pretrial statement to the Workers' Compensation Court shall attend the pretrial conference unless permission is granted by the court for substitute counsel to appear. Any substitute counsel permitted by the court to attend the conference shall be knowledgeable of all aspects of the case and shall possess the necessary authority to commit his client or associate regarding changes, stipulations, compromise/settlements, and trial dates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.2, and 1310.6.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 19:350 (March, 1993), amended LR 20: (November 1994).

§2158. Trial of Disputed Issues; Continuance

A. Only those issues listed in the Pretrial Statements of the parties shall be litigated at trial. No new issues shall be raised except by order of the Workers' Compensation Judge for good cause shown.

B. No continuances shall be granted for the absence of a subpoenaed witness if the subpoena was not issued in accordance with §2150 of these rules.

C. No continuance will be entertained based upon a conflict in the schedule of any party or attorney if the conflict arose after the date of the pre-trial conference, except for good cause shown or in cases of criminal assignments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20: (November 1994).

§2159. Cases or Other Matters Under Advisement

A. A case or other matter shall be considered as having been fully submitted for decision immediately upon the conclusion of trial or hearing. All testimony, depositions, documents and evidence shall be introduced on or prior to the day of trial. In instances where the Workers' Compensation Court allows briefs, the parties shall be allowed a maximum of five working days within which to file concurrent briefs.

B. If a transcript of the testimony is ordered by the Workers' Compensation Court due to the appointment of a successor judge, it shall be filed within 30 days of the appointment, and the case or matter shall not be considered as fully submitted until the reporter files the transcript.

C. When necessary, for good cause shown, one extension may be granted by the Workers' Compensation Judge not to exceed an additional 15 days for filing of the transcript.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 20: (November 1994).

§2167. Social Security Offset

A. Where a request for reverse offset pursuant to LSA-R.S. 23:1225 is made in connection with a disputed claim, it shall be made by filing Form LDOL-WC-1008 or by responsive pleading. After a determination of permanent and total disability and calculation of the offset on form LDOL-WC-1004, the Workers' Compensation Judge shall issue an order on form LDOL-WC-1005(B) recognizing the entitlement to the offset for social security benefits from the date of judicial demand, and setting the amount of the offset.

B. When workers' compensation benefits are being paid and are not disputed, a request for reverse offset pursuant to LSA-R.S. 23:1225 may be made by motion on form LDOL-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting reverse offset shall be granted ex parte from date of filing. Upon receipt of such a request the district office shall request information concerning receipt of social security benefits from the social security administration and shall calculate the amount of any offset on form LDOL-WC-1004. No fee shall be charged in connection with a request made under this Subsection.

C. No unilateral offset shall be recognized by this office after March 20, 1993.

D. Information concerning receipt of social security benefits and the amounts thereof shall be obtained only by personnel of the Office of Workers' Compensation on Form LDOL-WC-1004, which shall be properly executed by an official designated by the Social Security Administration.

E. No official of the Social Security Administration shall be subject to subpoena under these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20: (November 1994).

§2168. Financial and Compliance Hearings

A. Hearings on financial and compliance appeals held pursuant to LSA-R.S. 23:1171 shall be held in an expedited fashion within 15 days of the filing of the appeal, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.

B. No suspensive appeal of a determination of the financial and compliance officer will be entertained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20: (November 1994).

§2171. Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1 and 1310.8.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:350, amended LR 20: (November 1994).

Alvin J. Walsh
Director

9411#053

RULE

Department of Labor Office of Workers' Compensation

Medical Reimbursement Schedules (LAC 40:I.Chapters 25-53)

In accordance with the provisions of R.S. 49:950 et seq., the 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 amended.

The amendment of these rules is necessary because the coding system currently used in the workers' compensation reimbursement schedule is inconsistent with the system used in the Medicare program and as such has caused medical providers to be required to use two codes for the same treatment which has the potential of creating billing errors and of causing medical providers to refuse to treat workers'

compensation patients. It is necessary that the Office of Workers' Compensation adopt immediate updates of the medical reimbursement schedules incorporating 1994 procedure codes.

Title 40

LABOR AND EMPLOYMENT

PART I. Workers' Compensation Administration

- Chapter 25. Hospital Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 29. Pharmacy Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 31. Vision Care Services, Billing Instruction and Maintenance Procedures
- Chapter 33. Hearing Aid Equipment and Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 35. Nursing/Attendant Care and Home Health Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 37. Home and Vehicle Modification Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 39. Medical Transportation Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 41. Durable Medical Equipment and Supplies Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 43. Prosthetic and Orthopedic Equipment
- Chapter 45. Respiratory Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 47. Miscellaneous Claimant Expenses Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 49. Vocational Rehabilitation Consultant Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 51. Medical Reimbursement Schedule and Billing Instructions

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2 and 1203.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:212 (February 1993), amended LR 20: (November 1994).

- Chapter 53. Dental Care Services Reimbursement Schedule and Billing Instructions

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2 and 1203.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:1161 (September 1993), amended LR 20: (November 1994).

A copy of the reimbursement schedule is available for purchase at \$.25 per page and may be obtained by contacting Judy Albarado at (504) 342-7559; or at the Office of Workers' Compensation Administration, Box 94040, Baton Rouge, LA 70804-9040; or 1001 North 23rd Street, Baton Rouge, LA 70802.

Alvin J. Walsh
Director

9411#052

RULE

Department of Revenue and Taxation Severance Tax Division

Severance Tax (LAC 61:I.2903)

(Editor's Note: A portion of the following rule, which appeared on pages 1129 through 1130 of the October 20, 1994 Louisiana Register, is being republished to correct a typographical error.)

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 29. Natural Resources: Severance Tax

§2903. Severance Taxes on Oil: Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. Definitions

* * *

8.h. *Transportation Costs*—there shall be deducted from the value determined under the foregoing provisions the charges for trucking, barging, and pipeline fees actually charged the producer. In the event the producer transports the oil and/or condensate by his own facilities, \$.25 per barrel shall be deemed to be a reasonable charge for transportation and may be deducted from the value computed under the foregoing provisions. The producer can deduct either the \$.25 per barrel or actual transportation charges billed by third parties but not both. Should it become apparent the \$.25 per barrel charge is inequitable or unreasonable, the secretary may prospectively redetermine the transportation charge to be allowed when the producer transports the oil and/or condensate in his own facilities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Division, August 1974, amended LR 3:499 (December 1977), LR 20:1129 (October 1994), repromulgated LR 20: (November 1994).

Carl Reilly
Assistant Director

9411#030

RULE

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

**Plan Document—Dentists and Oral Surgeons
Exclusion, Exceptions**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended the following rule relative to the exclusion of benefits for services rendered by a dentist or oral surgeon.

The purpose, intent, and effect of this amendment is to provide an additional exception to the general exclusion of benefits for services rendered by a dentist or oral surgeon. This exception to the exclusion will allow the State Employees Group Benefits Program to pay benefits for oral and maxillofacial surgeries performed by a dentist or oral surgeon when such services are shown to the satisfaction of the program to be medically necessary, non-dental, and non-cosmetic procedures

Article 3, Section VIII, Subsection KK of the Plan Document for the State Employees Group Benefits Program, is amended to read as follows:

No benefits are provided under this contract for:

* * *

KK. Services rendered by a dentist or oral surgeon, except for covered dental surgical procedures (Article 3, Section V), dental procedures which fall under the guidelines of Article 3, Section I(F)(15), procedures necessitated as a result of or secondary to cancer, or oral and maxillofacial surgeries which are shown to the satisfaction of the program to be medically necessary, non-dental, non-cosmetic procedures; and

* * *

James R. Plaisance
Executive Director

9411#002

RULE

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

Net Ban During Lake Drawdown (LAC 76:VII.175)

The Wildlife and Fisheries Commission hereby establishes a rule prohibiting netting in lakes during water drawdown periods.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 1. Freshwater Sports and Commercial Fishing
§175. Net Ban During Lake Drawdown**

All freshwater impoundments shall be closed to use of commercial fish netting during water drawdown periods, unless otherwise specified by the department based upon biological and technical data; the closure to begin on the date the drawdown control structure is opened and continued until the lake returns to full pool following closure of the structure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20: (November 1994).

John F. "Jeff" Schneider
Chairman

9411#041

**NOTICES
OF
INTENT**

NOTICE OF INTENT

**Department of Economic Development
Office of Financial Institutions**

**Savings Bank Mutual Holding Company Reorganizations
(LAC 10:VII.Chapter 5)**

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:1131 et seq., particularly the rulemaking powers authorized by R.S. 6:1141, the commissioner of financial institutions hereby gives notice of his intent to adopt a rule to provide for the regulation and supervision of reorganizations of Louisiana state-chartered savings banks from mutual to mutual holding company with a stock savings bank subsidiary form.

The proposed rule will impose several specific requirements upon state-chartered savings banks that apply to reorganize as a mutual holding company with a stock subsidiary. This rule would:

1. require that the reorganizing institution adopt and submit a plan or reorganization;
2. require the submission of a full appraisal report which would assign a value to the reorganizing institution. This will determine the size of the stock offering needed to fully convert the savings bank to stock form;

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Savings Bank Mutual Holding Company
Reorganizations (LAC 10:VII.Chapter 5)**

3. require that management determine the amount of the resulting institution's value to be sold in the marketplace;

4. provide that the aggregate amount of outstanding voting common stock owned or controlled by persons other than the mutual holding company at the close of any proposed stock issuance shall be less than 50 percent of the total outstanding voting common stock;

5. establish a priority system for variously defined groups or constituencies for purchasing the institution's stock subscriptions;

6. set an eligibility date for determining which depositors receive rights to participate in the subscription offering;

7. require that those eligible depositors and others forming the reorganizing institution's "local community" be given preference in purchasing shares in the subscription offering;

8. limit the amount of stock subscriptions an individual or group may purchase in the offering to a certain percentage of the total offering size. Provisions 5-8 allow for as wide a distribution of the available stock subscriptions as possible within a certain geographically defined area. Additionally, since local residents are given preference in purchasing the stock subscriptions over nonlocal individuals, ownership and control of the institution will remain local and the amount of nonlocal ownership by professional investors will be restricted;

9. require a depositor vote on all savings bank reorganizations and prohibit management's use of previously executed proxies to satisfy depositor voting requirements;

10. require shareholder approval of any stock option or management recognition plans included in the institution's reorganization plan. Provisions 9-10 assure depositors of a voice in the future of the institution and allow them to control the amount of benefits awarded to the converting institution's officers and directors;

11. require the price of any stock option grant to be the present market price of the stock when such grant is exercised;

12. prohibit funding of any management recognition plan from the proceeds of the reorganization; and

13. require the submission of a detailed business plan which would set forth how the capital raised in the subscription offering would be utilized and that this capital would be used for legitimate business purposes and not endanger the continued safe and sound operation of the institution.

To request a copy of the complete text of the rule and for all interested persons wishing to submit written comment, please contact John A. Marzullo, Staff Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095, phone: (504) 925-4660, or by delivery to 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809. Comments will be accepted through the close of business on December 15, 1994. Copies may also be obtained through the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802.

Larry L. Murray
Commissioner

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost for this regulation will be the final rule publishing expense of \$1,300. The agency anticipates no new hardware, employee costs, or professional services will be required to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The commissioner has established a fee of \$2,000 for each application to reorganize a state chartered mutual savings bank into a mutual holding company with one or more subsidiary stock savings banks. It is estimated that the commissioner will not process any applications in Fiscal Year 94/95, but anticipates processing one application each fiscal year thereafter, for fees totaling \$2,000 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will directly affect those savings banks that apply to reorganize into a mutual holding company with one or more subsidiary stock savings banks. Estimated costs include application costs, legal costs, accounting costs, appraisal costs, broker/underwriter costs, and proxy and other publishing costs. With respect to benefits, this rule will enhance the value of a state savings bank charter by providing an alternative conversion form, thereby enabling the institution additional flexibility in raising capital, meeting its goals and objectives, and affording the opportunity to better serve the citizens of its local community and the state of Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant change in competition or employment in the public or private sector is anticipated. However, the additional conversion powers and flexibility afforded state savings banks will result in added competition to federally chartered thrifts, which enjoy such comparable powers at this time. Therefore, some additional private sector competition and employment may accrue. This will allow for the creation of additional capital by state savings banks, and perhaps greater opportunities to expand, merge with other financial institutions, etc.

Larry L. Murray
Commissioner
9411#066

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Radio and Television Technicians Board

Procedures of Operation; Examining Committee Per Diem Pay; Technicians' Licensing (LAC 46:LXI.Chapter 1)
(Repeal of LAC 46:LXI.Chapters 3 and 5)

In accordance with R.S. 49:950 et seq, the Administrative Procedure Act and R.S. 37:2301 through 2319, the Department of Economic Development, Radio and Television Technicians Board hereby gives notice of its intent to repeal its existing rules and adopt a new set of rules governing the procedures of operation of the board; the appointment and per diem pay of the examination committee; and the licensing of technicians by the board. These rules will be contained in LAC 46:LXV.Chapter 1. Existing rules in Chapters 3 and 5 have been revised and are now included as part of Chapter 1; therefore, the text of existing Chapters 3 and 5 is being repealed in its entirety.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXV. Radio and Television Technicians

Chapter 1. Organization

§101. Forward

This board, a duly constituted agency of the State of Louisiana, created under Act 428 of 1958, as amended, is authorized to administer the above mentioned Act, and its powers are controlled and governed solely by the provisions of said Act. Therefore, the following rules of procedure are intended as a means of facilitating the functions of the board in enforcing the legislative mandate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§103. Conduct of Meetings

A. Except when otherwise provided for by statutes or by rules of procedure adopted by this board, *Robert's Rules of Order* will govern the conduct of meetings and business of this board.

B. The administrator, through the secretary, shall call a board meeting as needed on any day or place where he deems necessary. Any meeting, hearing, or trial shall be counted as a meeting.

C. Meeting Agenda. A tentative agenda, or agenda, shall be supplied to each board member prior to the start of each meeting.

D. The following will be the order of business at the board meetings:

1. opening;
2. roll call and reading of minutes;
3. at the January meeting, election of officers;
4. official communications;
5. report of administrator;
6. report on enforcement;

7. reports of board members and committees;
 8. unfinished business;
 9. new business;
 10. report of the chairman;
 11. financial report; and
 12. adjournment;
- E. Executive Sessions

1. The board may call for executive sessions at its meetings when it deems necessary, by a majority vote of those in attendance.

2. The administrator may be present and included at any and all executive sessions at any and all meetings, by a majority vote of the board members present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§105. Method of Rule Adoption; Amendment; or Repeal

These rules of procedure may be amended, changed, or rescinded by any such proposal being submitted in writing and read at two regular meetings of this board, and decided upon the second meeting by a two-thirds vote of the members present and voting. Where a two-day meeting is held, the vote cannot be taken the second day where it is submitted the day before, but it must be read and voted on at the next regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§107. Election of Officers

A. At the first meeting of the board in January of each year, an executive meeting shall be called and held by the board for the purpose of accepting nominations and electing a chairman and a secretary. Said executive meeting shall be held immediately after roll call.

B. The chairman shall appoint a judge and two tellers to conduct the elections.

C. Nominations for chairman shall be considered first.

D. On the completion of the nominations for the chairman a vote shall be taken by secret ballot.

E. The nominee receiving the plurality of votes shall be declared elected as chairman.

F. Nominations for secretary shall be conducted after the chairman has been duly elected. On the completion of the nominations for secretary, a vote shall be taken by secret ballot. The nominee receiving a plurality of votes shall be declared elected as secretary.

G. On the completion of the elections, the new chairman and secretary shall be sworn in and take their respective offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§109. Ethical Conduct of Board Members

A. No member of this board shall use his title or official capacity as a board member in advertising, stationery, business forms or the like, or in any manner indicate such for personal or business advantages.

B. The board shall reimburse a board member for actual expenses incurred while conducting investigations for the board, provided expressed written approval has been received by said board member to conduct such an investigation from the secretary and/or administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§111. Administrator of the Board

To dismiss the administrator of the board, a resolution to dismiss shall be made at one regular board meeting and shall be voted on at the next regular meeting. Twenty days must transpire between the first meeting and the second meeting, and a two-thirds vote of members present and/or voting by proxy shall be necessary to carry out this resolution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§113. Examining Committee

A. The term of members of the examining committee shall be for a period from January to December 31 and shall serve at the pleasure of the board.

B. Meetings of the examining committee shall be called by the board administrator through the secretary of the board.

C. Each member of the examining committee shall receive a per diem of \$30 for the performance of his duties while conducting examinations, and \$30 per day for any official meetings attended. He shall also be paid all necessary subsistence expenses as set forth in the guide lines of the Division of Administration.

D. The examining committee shall elect a chairman and secretary and shall meet when a meeting is called by the administrator through the board secretary. The committee shall report to the board and shall submit minutes of the committee meetings to the board.

E. A practical examination shall be conducted by the examining committee, according to the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§115. Qualifications/Requirements of Applicants

A. In compliance with other laws of this state, no applicant under 16 years of age may be issued a license as an apprentice, and no applicant under 18 years of age may be issued a license as a technician.

B. Only applicants who have been approved by the board office shall be given examinations as evidenced by the name

list furnished to the official examiner by the administrator, or a letter from the administrator authorizing such.

C. Before receiving the technicians examination an applicant must submit at least two affidavits of recommendations of qualifications which indicate the equivalent of two years of apprenticeship training. These may be from the following sources:

1. radio and/or television schools attended;
2. past employers from related fields; and
3. other licensed technicians statements, or a combination of the same.

D. An application for technicians license may be rejected if the affidavits furnished indicate that the applicant acquired his knowledge while working in the state of Louisiana without a certificate from the board.

E. In order to insure proper identification of all applicants for license as a radio technician, satellite technician, television technician or apprentice, the applicant for such license shall have attached thereto three photographs of the said applicant, size 1½" x 1¼" for reference by board members, the administrator, or the examining committee. One of the photographs shall be affixed to the licensee's ID card.

F. That no application for examination be accepted from anyone charged with violation of Act 428 as amended, until all charges are disposed of.

G. In order for a U.S. veteran to obtain credit under the provisions of the act, he must submit a copy of his DD-214.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§117. Examinations

A. Television Technicians Examination

1. The written section of the television technicians examination shall consist of 25 questions covering the circuit theory of operation and practical trouble shooting techniques as applied to a particular chassis, the schematic diagram of which is furnished with the examination questions.

2. The balance of the examination will consist of 25 questions covering circuit theory of operation and practical servicing techniques but not as applied to any specific make or model of television receiver.

3. Each television examination shall consist of the above named elements and shall exist as a packaged examination, each to be complete in itself and different from each of the others.

4. After an apprentice successfully completes his two years of apprenticeship training and before he receives his apprenticeship certificate from the Department of Labor, he shall on the mandate of the board take the technician's examination.

B. Radio Examination. The radio examination shall consist of 50 questions concerning radio theory.

C. Satellite Examination. The satellite examination shall consist of 50 questions concerning satellite theory.

D. In each type of examination in Subsections A, B, and C above, the originals of both questions and answer sheets shall be given into the care of the administrator.

E. An applicant:

1. who fails to appear for two consecutive examinations after being duly notified of each shall forfeit all fees on deposit with the board and any temporary permit issued to him shall be canceled. He shall be notified of such and that his right to practice is withdrawn.

2. who takes an examination and fails must resubmit his application and pay the examination fee with said application.

3. having failed two consecutive examinations shall not be allowed to apply for another examination for at least six months.

4. who fails to appear for an examination after being duly notified for same shall forfeit any temporary permit issued to him. Such permit can only be re-issued by special dispensation of the board.

F. The administrator shall assume the responsibility to examine and classify each applicant for the apprenticeship program according to background and ability before he shall be indentured with the federal and state Departments of Labor. He shall, also, have the responsibility of removing from apprenticeship any applicant who cannot meet the requirements of this board, and the federal and state Departments of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§119. Student Permit

The State Radio and Television Technicians Board shall establish a student program by which student's enrolled in electronic classes at an accredited trade or vocational school, be granted a permit to do service on equipment regulated by this board, under the direct supervision of a licensed technician.

1. A student must be enrolled full-time at an accredited trade or vocational school and must show proof of this with a letter from the school.

2. No credit will be given for the time worked as a student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§121. License Renewal

A. The administrator shall not later than November 1 of each year send notice of license renewal.

B. Any licensee who fails to renew after expiration, which is December 31 of each year, is subject to a delinquent fee of one-third of the renewal fee.

C. Any licensee whose renewal application is received at the board office post marked after December 31 of that year shall pay a delinquent fee in the amount of one-third of the renewal fee, rounded off to nearest \$.50.

D. A licensee who fails to renew within 70 days of the expiration of a previous license shall be automatically revoked.

E. No applicant may be accepted for action by the board until proper fees have been received and cleared by the bank. Applicants who do not submit the required fees, or the payment thereof does not clear the bank shall be notified of such and, cautioned that to practice without a proper license by the board is a violation of state law. All N.S.F. checks shall be charged a fee of \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§123. License Revocation

A revoked license number shall not be issued to other than the original applicant for a period of one calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§125. Temporary Work Permit

A. A temporary permit to work shall in no way be construed as permission to open a business, but only as a permit to work as a technician under a competent licensed technician.

B. The administrator may issue a letter to the applicant stating that he can practice for the months of November and December until following year's licenses are available. A copy of this letter is to be sent to the board member in the district where the person in question is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§127. Financial Records

The financial and all other records of the board shall be kept at the board office and periodic financial statements distributed to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§129. Technicians Roster

Rosters of technicians licensed by the board may be furnished by the board at a nominal fee determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§131. Fees

A. Fees assessed by the board are specified in R.S. 37:2301-2319.

B. Any fees or deposits unclaimed by any applicant after a period of two years shall forfeit same by prescription. These fees shall become part of earned fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

§133. Public Access to Board Records

Any person or organization may examine the records of the board under the Public Records Act of Louisiana, by appointment at said board office during normal working hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2301-2319.

HISTORICAL NOTE: Adopted by the Department of Commerce, Radio and Television Technicians Board, 1958, amended by the Department of Economic Development, Radio and Television Technicians Board, LR 21:

Chapter 3. Examination

Repealed in its entirety.

Chapter 5. License

Repealed in its entirety.

Interested persons may submit written comments through the close of business at 4:30 p.m. on December 20, 1994. Comments should be directed to Jessie E. Pugh, Administrator, Radio and Television Technicians Board, 555 Julia Street, Suite 112, Baton Rouge, LA 70802-7523.

Jessie E. Pugh
Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rules of Procedure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase of \$50 per year for examination committee meetings. One two-day meeting is held each year at the current rate of \$25 per day for each of five members, and the proposed rule increases the rate to \$30 per day. There will also be an increased cost of \$780 for publishing the proposed rule in the State Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no effect on nongovernmental groups as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of the proposed rule.

Jessie E. Pugh
Administrator
9411#011

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Certification Changes

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, the following certification policy changes as a result of the Third Extraordinary Session of 1994 and these shall take precedence over existing policies in Bulletin 746, Louisiana Standards for State Certification of School Personnel, effective August 1, 1994. Notice of these changes and administrative authority involving Bulletin 746 were also adopted as an emergency rule and was printed in the October, 1994 issue of the *Louisiana Register*.

Certification Changes as a Result of Act 1 of the Third Extraordinary Session of 1994

The following certification policy changes are necessary as a result of Act 1 of the Third Extraordinary Session of 1994 and shall take precedence over the existing policies in Bulletin 746, Louisiana Standards for State Certification of School Personnel, effective August 1, 1994.

1. Effective August 1, 1994, successful completion of the Louisiana Teacher Assessment Program is required to be eligible for a Type B or Type A certificate as specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel, for a teacher who has not been employed in a Louisiana public school prior to August 1, 1994.

2. A Type C Basic certificate which is valid for three years will be issued to persons who complete all certification requirements and who are employed for the first time after August 1, 1994, according to one of the following provisions:

- a. Interim Emergency Policy for Hiring Full/Time, Part/Time, Noncertified School Personnel (Circular 665)
- b. Temporary Teaching Assignment Only (lacks a teaching certificate)
- c. Temporary Employment Permit
- d. Emergency Permit
- e. Out-of-State Provisional

Upon completion of the Teacher Assessment Program, a regular certificate (C, B, or A) will be issued.

3. The requirement for a Type B or A certificate shall be deleted for certification endorsements, and the experience normally associated with the issuance of the Type B or A certificate shall be maintained as a requirement for the endorsements.

NOTE: Certification requirements for Regular Type C, B, and A certificates are prescribed within Bulletin 746, Louisiana Standards for State Certification of School Personnel, and remain as previously adopted.

AUTHORITY NOTE: R.S. 17:411

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:

Interested persons may submit comments on the proposed policy until 4:30 p.m., January 8, 1994 to: Eileen Bickham,

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Certification Changes**

- 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 \$600 (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 \$100. 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 costs or economic benefit to directly affected persons or nongovernmental groups as a result of the proposed rule.
Persons who do not hold permanent Louisiana teaching certificates and those who have not been employed in a Louisiana public school prior to August 1, 1994, are affected as a result of Act 1 with regard to the types of certificates issued.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
There will be no effect on competition and employment as a result of this action.

Marlyn Langley
Deputy Superintendent
for Management and Finance
9411#064

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1475—School Bus Driver Operational and Vehicle Maintenance Procedures (LAC 28:I.915)

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, Bulletin 1475, The Louisiana School Bus Driver Operational and Vehicle Maintenance Procedures, Revised 1994. This bulletin is referenced in the *Louisiana Administrative Code*, Title 28 as noted below:

**Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§915. Bus Transportation Standards and Regulations**

C. Bulletin 1475, The Louisiana School Bus Driver Operational and Vehicle Maintenance Procedures, revised 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:160.

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

The complete document may be seen in the Office of the State Register, located on the Fifth Floor of the Capitol Annex, 1051 North Third Street, the Office of Special Projects, 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, Louisiana.

Interested persons may submit comments on the proposed policies until 4:30 p.m., January 9, 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 1475—School Bus Driver Operational and Vehicle Maintenance Procedures**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The estimated implementation cost to print 200 copies of the revised 1994 Operational and Vehicle Maintenance Procedures, Bulletin 1475 is \$406. BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$70. Funds are available.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The estimated effect on revenue collections, after giving two copies to each school system, and selling the remaining and future copies at a rate of \$5 per copy, would be \$340 in FY 94-95.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
Individual school bus operator, school personnel and parents may purchase this bulletin at a cost of \$5.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9411#058

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Discipline Procedures

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the State Board of Elementary and Secondary Education approved for advertisement, Section 459 (Discipline Procedures) of Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act.

Section 459 of Bulletin 1706 was adopted as an emergency rule, effective August 25, 1994 and printed in its entirety in the September, 1994 issue of the *Louisiana Register*.

Bulletin 1706, Revised 1994 has been approved for advertisement by the Board of Elementary and Secondary Education. Section 459 (Discipline Procedures) will be included and inserted in Bulletin 1706, revised 1994, when final adoption of both items is completed.

Interested persons may submit comments on the proposed rule until 4:30 p.m., January 9, 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 1706—Discipline Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Proposed are revisions to Bulletin 1706, *The Regulations for Implementation of the Exceptional Children's Act* in the area of discipline. The discipline revisions change the special education regulations to be in compliance with federal law. Estimated implementation costs to state governmental unit for the first year is \$200 for printing and postage.

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$70. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or benefits are estimated from this proposed change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment from this proposed change.

Marlyn J. Langley
Deputy Superintendent
for Management and Finance
9411#061

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1868, BESE Personnel Manual Amendment

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, a revised smoking policy for Special School District #1, BESE Special Schools, and Technical Institutes. This revision is an amendment to Bulletin 1868, BESE Personnel Manual as stated below:

Bulletin 1868, BESE Personnel Manual

Chapter H: Safety, Health and Environmental Work Factors

191: Programs

* * *

C. Smoking in the Workplace

1. Board Special Schools and Special School District #1.

a. Definition:

(1) *School Building*—any building located on the property of Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, the Louisiana Special Education Center; or the buildings located on the grounds of Developmental Centers or Mental Health Hospitals, which are assigned for Special School District #1 school programs. Buildings used solely as residence for employees are not included in this policy.

(2) *Smoking*—possession of lighted cigar, cigarette, pipe, or any other lighted tobacco product.

b. Policy:

(1) No person shall smoke, chew, or otherwise consume any tobacco or tobacco product in any of the buildings identified in definition #1.

(2) No person shall smoke or carry a lighted cigar, cigarette, pipe, or any other form of smoking object or device on the grounds of the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, the Louisiana Special Education Center; or on the grounds designated for Special School District #1 school purposes in Developmental Centers and Mental Health Hospitals, except in an area specifically designated as a smoking area.

(3) Superintendents of the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired and the Louisiana Special Education Center may designate an appropriate area(s) on the grounds for smoking. Special School District #1 Principals may collaborate with the superintendent/CEO of the developmental centers or mental health hospitals in the designation of an appropriate smoking area(s).

(4) Special School District #1 employees housed in Department of Public Safety and Corrections facilities shall abide by established policies at those facilities.

(5) Smoking is prohibited on any school bus or other state vehicle while transporting students for school activities.

(6) Employees violating these policies shall be subjected to disciplinary action in accordance with Bulletin 1868 or Civil Service procedures. Non-employees violating

the policy shall be subject to removal from the school grounds. Students violating this policy shall be subject to actions as specified in student disciplinary policies or IEP, treatment, or habilitation plans.

2. Post Secondary Technical System

a. Technical institutes under the jurisdiction of the board are to develop and administer procedures concerning smoking in the workplace.

b. Smoking shall be allowed only in clearly identified, specifically designated areas.

* * *

AUTHORITY NOTE: H.B. 234 of 1994 Legislature

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:

Interested persons may submit comments on the proposed policy until 4:30 p.m., January 8, 1995 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: BESE Personnel Manual Amendment**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a nominal cost to print and disseminate the notice to employees. Smoking policies and areas previously established by Department of Health and Hospitals and Department of Public Safety and Corrections agencies have been adhered to by SSD#1. The Board Special Schools will implement this policy through provisions of notices to employees.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$140. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups. Smokers, both employees and non-employees, will be restricted from smoking while on the grounds of SSD#1 or the Board Special Schools except in designated areas.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9411#063

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 1943—Teacher Assessment—Grievance Procedure,
Section X**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement Section X, Grievance Procedures as an addition to Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment. Section X, Grievance Procedures was also approved as an emergency rule and appeared in the August, 1994 issue of the *Louisiana Register*. The effective date of the emergency rule was July 28, 1994.

The complete document may be seen in the Bureau of Research and Development, State Department of Education, or in the Office of the Board of Elementary and Secondary Education located in the Department of Education Building in Baton Rouge, LA, and in the Office of the State Register, Capitol Annex, Fifth Floor.

The local education agencies, all public schools, assessor, and assessor trainers will be provided copies of Section X, Grievance Procedures before schools open and assessments begin. Full implementation of the Louisiana Teacher Assessment Program will begin with the 1994-95 school year and is mandated by Act 1 of the Third Extraordinary Session, 1994 Louisiana Legislature.

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

Interested persons may submit comments on the proposed rule until 4:30 p.m., January 8, 1995 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 1943—Teacher Assessment—Grievance
Procedure, Section X**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The budget for the Bureau of Professional Accountability for FY 94-95 is \$3,481,005 in State General Funds.

The estimated costs for FY 94-95 are for printing of the *Policies and Procedures for Louisiana Teacher Assessment*, Grievance Procedure, Section X only (\$1,404 at the state level and none at the local level).

In addition, copies will be mailed to all public school principals and one copy will be mailed to each superintendent, to the Louisiana Teacher Assessment Program contact person for the central office, to all assessor trainers, and assessors. Postage costs are estimated at \$400 to mail copies of the *Policies and Procedures for Louisiana Teacher Assessment*, Grievance Procedure, Section X only.

The Louisiana Department of Education (LDE) may incur costs of an unestimated nature for hearings which an employee of or contracted by the Office of the Attorney General must conduct (Section X, page 1, #8).

The LDE may also incur costs if a lawsuit(s) is filed against the assessment team (Section X, page 2, #11).

School boards may incur costs if a lawsuit(s) is filed against the assessment team (Section X, page 2, #13).

Contingent on revisions being made to *Policies and Procedures for Louisiana Teacher Assessment*, there may be costs for printing and mailing revisions in FY 95-96 but these are not determinable costs at this time.

The SBESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$75. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no cost and/or economic benefit to directly affect persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The printing of the *Policies and Procedures for Louisiana Teacher Assessment*, Grievance Procedures, Section X only, does not affect competition.

Marlyn Langley
Deputy Superintendent
Management and Finance
9411#065

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Internship Program for Nonpublic School Administrators (LAC 28:I.952)

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement, the following internship program for nonpublic school administrators which will be included in the Administrative Code, Title 28 as stated below:

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations and State Plans Subchapter C. Nonpublic Regulations (Other than in Bulletin 741)

§952. Internship Program for Nonpublic School Administrators

A. 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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:

This proposed policy was also adopted as an emergency rule, and printed in the September, 1994 issue of the *Louisiana Register*.

Interested persons may submit comments until 4:30 p.m., January 8, 1995 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: Internship for Nonpublic School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated costs (savings) to state or local governmental units.

The Department of Education will incur a nominal cost for printing and disseminating the rule.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$50. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons affected by this rule will incur the cost of the college or university program.

The proposed action will allow nonpublic school administrators to remove the "provisional" status from their certificates and receive the regular principal endorsement on the Type A Certificates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9411#062

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to the fee schedule for Louisiana high school students attending the technical institutes. This amendment to the *Louisiana Administrative Code*, Title 28 as stated below was adopted as an emergency rule effective May 27, 1994 and printed in the June, 1994 issue of the *Louisiana Register*.

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

* * *

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).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:

Interested persons may submit comments on the proposed policy revision until 4:30 p.m., January 9, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 708064-9064.

Carole Wallin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Technical Institutes Revised Fee Schedule

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$70. Funds are available.

There were 316 high school students enrolled statewide during the 93-94 summer term. Total tuition and registration fees for the 316 students resulted in revenues of \$34,760.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a decrease of \$34,760 in revenue collections from this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana high school students enrolling in technical institutes for high school credit during the summer term will not pay the \$105 tuition or the \$5 registration fee for a total savings of \$110 for the student.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9411#059

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education Board of Regents

Registration and Licensure of Postsecondary Academic Degree-granting Institutions (LAC 28:IX.103, 105, 301-327)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 17:1808 which delegates the authority to the Board of Regents to set rules for registration and licensure of postsecondary academic degree-granting institutions, and R.S. 17:3125-3382 which authorizes the Board of Regents to coordinate postsecondary, academic degree-granting institutions; notice is hereby given that the Board of Regents intends to amend its rule on the registration and licensure of institutions in Louisiana offering postsecondary academic degrees to insure the viability and worth of the instruction offered by requiring that such instruction meet minimal academic and physical plant standards; and to additionally protect both the student and the public. This rule is expected to become effective February 20, 1995. This is an amendment to the Administrative Code, Title 28, as noted below.

Title 28 EDUCATION

Part IX. Regents

Chapter 1. Rules for Registration and Licensure §103. Registration and License Applications

* * *

C. License applications must be accompanied by a nonrefundable license application fee of \$750. The license application fee must be paid by company or institutional check or by money order, and should be made payable to the Louisiana Board of Regents.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:

§105. License Fees

A. The license application fee shall be \$750. Those institutions granted a license to operate will be required to pay an additional \$750 at the start of the second year of the two-year licensing period. License renewal fees are required during each subsequent two-year licensing period and are nonrefundable.

B. If a request for license renewal is not received at the Board of Regents' offices at least 30 days prior to its expiration date, the institution can be subject to a delinquent fee of \$500 in addition to the renewal fee.

* * *

D. Institutions seeking licensure shall submit all required materials and the nonrefundable license fee to the Board of Regents. If a final determination concerning the institution's qualifications for licensure is not reached within 180 days of receipt of the license application, a provisional license will be issued to the institution. The provisional license will remain in effect pending a final licensing decision by the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:

Chapter 3. Criteria and Requirements for Licensure

§301. General Standards

A. General standards for public and private academic degree-granting institutions offering similar degrees and titles must be as close as possible.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:

§302. Accreditation

A. Institutions must hold accreditation through an association recognized by the U.S. Department of Education. Institutions domiciled outside the state of Louisiana must be fully accredited by an accrediting body recognized by the U.S. Department of Education prior to making an application for licensure with the Board of Regents. Institutions domiciled in the state of Louisiana must either hold recognized accreditation or must make formal application and obtain accreditation from a U.S. Department of Education recognized accrediting association by date certain as a requirement for licensure.

B. Institutions seeking accreditation that have been found to meet other requirements set forth by the Board of Regents will be granted a conditional license until such time that they are accredited, or at a minimum, receive candidacy status from a recognized accrediting association. An institution that does not receive accreditation within a specified time frame will have its conditional license revoked.

C. The Board of Regents will consider a possible waiver of the accreditation requirement in the case of single purpose institutions. This consideration will be given in circumstances where the board determines that it would be educationally impractical for an institution to reorganize its programs and operations in order to become eligible for consideration by a

U.S. Department of Education recognized accrediting association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:

§303. Faculty

A. Qualifications of Faculty

1. Faculty shall be qualified by education and experience in the fields in which they teach. Faculty must meet the following minimum requirements:

* * *

B. Institutions offering advanced degrees must employ faculty who hold advanced degrees in appropriate fields from institutions accredited by recognized agencies¹. It is required that faculty credentials be verifiable.

1. If any institution employs a faculty member whose highest earned degree is from a non-regionally-accredited institution within the United States or an institution outside the United States, the institution must show evidence that the faculty member has appropriate academic preparation.

2. It is the responsibility of the institution to keep on file for all full-time and part-time faculty members documentation of academic preparation, such as official transcripts, and if appropriate for demonstrating competency, official documentation of professional and work experience, technical and performance competency, records of publications, and certifications and other qualifications.²

¹ Recognized accrediting agencies are those approved by the United States Department of Education.

² Source: Southern Association of Colleges and Schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:

§305. Academic Program Standards

* * *

C. Institutions must provide programs of sufficient quality and content to achieve stated learning objectives. Curricula offered by the institutions must be formulated and evaluated by faculty with appropriate earned degrees from institutions with U.S. Department of Education recognized accreditation. Institutions are also required to establish procedures for evaluating program effectiveness.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:

§307. Physical Plant Standards

* * *

B. Facilities and Equipment

1. The institution shall maintain or provide access to appropriate administrative, classroom, and laboratory space, and appropriate equipment and instructional materials to support quality education based on the type and level of program being offered. Facilities must comply with all health and safety laws and ordinances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:

§311. Maintenance of Records

* * *

B. A student's records must be available for review by that student at the institution's central office.

C. Individual student records must include an enrollment agreement which at a minimum contain:

* * *

D. Student records must also include:

* * *

AUTHORITY NOTE: Promulgated in accordance with 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:

§315. Organization and Administration

A. An institution shall establish a governing structure which delineates responsibility for institutional operations, policy formation, and the selection of the institution's chief executive officer. If the institution is governed by a board or group of officers, the role and responsibilities of that body must be clearly defined.

B. Administrative personnel must possess qualifications which support the institution's stated purpose and effective operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:

§317. Procedures for Tuition and Fee Refunds

A. Pricing and Refund Policy

* * *

e. Refunds must be paid within 45 days of the date of withdrawal of the student from the institution.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:

§325. Sale of Ownership and Transfer of License

In the event that an institution sells all or a majority interest in its ownership, it is required to notify the Board of Regents of both expected and final sale. A review of the institution's operations and objectives will be required upon final sale to determine if the institution's operating license should be transferred to the new ownership. Any and all costs associated with the Board of Regents' review will be borne by the new ownership of the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:

§327. Licensure Denial

Any institution denied licensure by the Board of Regents that wishes to seek reconsideration by the board is required to wait

a minimum of 24 months before resubmitting its license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:

Interested persons may submit comments on the proposed rule until 4:30 p.m., January 6, 1995 to: Dr. Larry Tremblay, Board of Regents, 150 Third Street, Suite 129, Baton Rouge, LA 70801-1389.

J. Larry Crain

Commissioner of Higher Education

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Registration and Licensure of Postsecondary Academic Degree-granting Institutions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated costs for administering Act 129 of the 1991 Regular Legislative Session is \$10,000 in fiscal year 1994/95. These costs will be covered in full through the collection of license application and associated site visit fees from institutions applying for a license to operate in the state of Louisiana. All funds for the administration of this act will be self-generated monies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The funds necessary to administer the program will come from self-generated revenues collected from institutions applying for a license to operate in the state of Louisiana.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Costs will be borne by those postsecondary degree-granting institutions wishing to operate in the state of Louisiana. There will be an increase in the licensure fee. If this policy is adopted the licensure fees will increase \$250 and this will generate approximately \$5,000 additional monies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a negligible effect on competition and employment in Louisiana because of this act.

J. Larry Crain
Commissioner
of Higher Education
9411#049

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Architectural, Industrial, and Maintenance Coatings
(LAC 33:III.Chapter 21) (AQ107)

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, (AQ107).

Architectural, Industrial and Maintenance (AIM) coatings are defined as coatings applied to stationary structures and their appurtenances, portable buildings, pavements and curbs. These coatings include off-the-shelf paints sold to consumers, as well as certain industrial specialty products. The AIM rule sets volatile organic compound (VOC) limits for these coatings.

EPA is developing an AIM rule. The Louisiana Department of Environmental Quality (LDEQ) has submitted a State Implementation Plan (SIP) for the Baton Rouge ozone nonattainment area which has included the VOC reduction generated by the AIM rule. Louisiana has committed to promulgating an AIM rule in the interim so that the VOC reductions can be used to demonstrate this area's work toward ozone attainment. When EPA has final adoption of their AIM rule, Louisiana will have to examine its rule for consistency with the federal rule.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds §2153. Architectural and Industrial Maintenance Coatings

A. Definitions. Unless specifically defined in LAC 33:III.111, the terms in this Section shall have the meanings commonly used in the field of air pollution control. Additionally, the following meanings apply, unless the context clearly indicates otherwise:

Anti-graffiti Coating—a coating which is formulated for and applied to exterior or interior walls, doors, partitions, fences, signs, or murals to deter adhesion of graffiti and to resist repeated scrubbing with solvents, harsh cleansers, and scouring agents used to remove graffiti.

Appurtenance—an accessory to an architectural structure including, but not limited to, hand railings, cabinets, bathroom and kitchen fixtures, fences, rain gutters and downspouts, window screens, lamp posts, heating and air conditioning equipment, large fixed stationary tools and concrete forms, and mechanical equipment.

Architectural Coating—any coating which is applied to stationary structures or their appurtenances, mobile homes, pavements, or curbs.

Bituminous Pavement Sealer—a black or brownish coating material, consisting mainly of hydrocarbons, which is soluble

in carbon disulfide, and which is obtained from natural deposits or a residue from the distillation of crude oil or low grades of coal.

Bond Breaker—a coating applied between layers of concrete to prevent the freshly poured layer of concrete from bonding to the layer over which it is poured.

Calcimine Recoating Product—a flat solvent borne coating formulated and marketed specifically for recoating calcimine-painted ceilings and other substrates.

Colorant—any pigment or coloring material added to a consumer product or architectural or industrial maintenance coating for an aesthetic effect, or to dramatize an ingredient.

Concrete Curing Compound—a coating applied to freshly poured concrete to retard the evaporation of water.

Concrete/Masonry Conditioner—a low-solids lacquer which is formulated and marketed specifically for use as a conditioner or sealer of concrete and masonry surfaces.

Dry Fog Coating—a spray coating formulated such that overspray droplets dry before falling on surfaces other than the substrate.

Fire Retardant Coating—a coating which has a flame spread index of less than 25 when tested in accordance with ASTM Designation E-84-87, Standard Test for Surface Burning Characteristics of Building Material, after application to Douglas fir according to the manufacturer's recommendations.

Flat Architectural Coating—a coating which registers a gloss of less than 15 on a gloss meter held at an 85 degree angle to the coated surface or less than five on a gloss meter held at a 60 degree angle, and which is described on the label as a flat coating.

Form Release Compound—a coating applied to a concrete form to prevent freshly poured concrete from bonding to the form. The form may consist of wood, metal, or any material other than concrete.

Graphic Arts Coating (Sign Paint)—a coating formulated and marketed solely for application to indoor or outdoor signs (excluding structural components and murals) and includes lettering enamels, poster colors, and bulletin colors.

High Temperature Industrial Maintenance Coating—a coating formulated for and applied to substrates exposed continuously or intermittently to temperatures above 400°F.

Industrial Maintenance Coating—a coating formulated for and applied to substrates that are exposed to one or more of the following extreme environmental conditions:

- a. immersions in water, wastewater, or chemical solutions (aqueous and nonaqueous solutions) or chronic exposure of interior surfaces to moisture condensation;
- b. acute or chronic exposure to caustic or acidic agents or to chemicals, chemical fumes, or chemical mixtures;
- c. repeated exposure to temperatures in excess of 250°F;
- d. repeated heavy abrasion, including mechanical wear and repeated scrubbing with industrial solvents, cleaners, or scouring agents; or
- e. exterior exposure of metal structures.

Label—any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or

consumer product package for purposes of branding, identifying, or giving information with respect to the product, use of the product, or the contents of the package.

Lacquer—a clear or pigmented coating formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without a chemical reaction.

Magnesite Cement Coating—a coating for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

Manufacturer—any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product or architectural and industrial maintenance coating.

Mastic Texture Coating—a coating which is formulated to cover holes and small cracks and to conceal surface irregularities. This category includes waterproofing mastic coatings.

Metallic Pigmented Coating—a coating which is formulated with a minimum of 0.4 pound of metallic pigment per gallon, as applied.

Multicolor Coating—a coating which exhibits more than one color when applied and which is packaged in a single container and applied in one coat.

Nonflat Architectural Coating—a coating which registers a gloss of 15 or greater on a gloss meter held at an 85 degree angle to the coated surface or five or greater on a gloss meter held at a 60 degree angle.

Quick Dry Primer/Sealer/Undercoat—a primer, sealer, or undercoat which is intended to be applied to the surface of a substrate to perform one of the following functions: provide a firm bond between the substrate and subsequent coats; seal fire, smoke, or water damage; block stains; or condition porous surfaces; and which dries to touch within one half-hour and can be recoated within two hours, as determined by ASTM-D1640 or other test method approved by the department.

Roof Coating—a coating formulated for application to exterior roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation. Metallic pigmented roof coatings which contain a minimum of 0.4 pound of metallic pigment per gallon, as applied, shall not be considered in this category, but shall be considered to be in the metallic pigmented coating category.

Sanding Sealer—a clear wood coating (excluding lacquer and shellac) formulated to be applied to bare wood for sanding preparation and to seal the wood for subsequent application of varnish. To be considered a sanding sealer, a coating must be clearly labeled as such.

Shellac—a clear or pigmented coating formulated with natural resins (except for nitrocellulose and gum resins), thinned with alcohol, and which dries by evaporation without a chemical reaction.

Swimming Pool Coating—a coating applied to the interior surface of swimming pools which is specifically formulated to resist swimming pool chemicals.

Tile-like Glaze Coating—a coating which is formulated to provide a tough, extra durable coating system, applied as a

continuous (seamless) high-build film, and which cures to a hard glaze finish.

Tint Base—a flat or nonflat architectural coating that contains titanium dioxide or an equivalent white pigment, and to which colorant is added to produce a desired color.

Traffic Coating—a coating formulated and applied to streets, highways, and other surfaces including, but not limited to, curbs, berms, driveways, and parking lots.

Undercoat—a coating formulated and applied to provide a smooth surface for subsequent coats.

Varnish—a clear or pigmented coating formulated with various resins to dry by chemical reaction on exposure to air and intended to provide a durable transparent or translucent solid protective film.

Waterproofing Sealer—a colorless coating formulated and applied for the sole purpose of protecting porous substrates by preventing the penetration of water and which does not alter the surface appearance or texture.

Wood Preservative—a coating formulated to protect wood from decay or insect attack and which is registered as a pesticide product with the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. Section 136-136y).

B. Applicability

1. Any person who manufactures a product which must comply with the provisions of this Section shall continue to comply with all requirements of this Section even if the marketing claim which caused it to be subject to this Section is changed or discontinued.

2. Any person who sells, offers for sale, or manufacturers for sale within Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge Parishes, any architectural or industrial maintenance coating which is specified in this Section shall comply with the provisions of this Section.

C. Standards

COATING TYPE	EMISSION STANDARD	
	lbs VOC/gal	grams VOC/liter
Anti-graffiti Coating	5.01	600
Bituminous Pavement Sealer	0.80	100
Bond Breakers	5.01	600
Calcimine Recoating Product	4.00	475
Concrete Curing Compound	2.92	350
Concrete/Masonry Conditioner	6.50	780
Dry Fog Coating	3.34	400
Fire Retardant Coating: Clear	7.10	850
Pigmented	4.17	500
Form Release Compound	2.09	250
Graphic Arts Coating (Sign Paint)	3.76	450
High Temperature Industrial Maintenance Coating	5.43	650
Industrial Maintenance Coating	3.76	450
Lacquer	5.68	680
Magnesite Cement Coating	3.76	450
Mastic Texture Coating	2.50	300
Metallic Pigmented Coating	4.17	500
Multicolor Coating	5.01	600
Pretreatment Wash Primer	6.50	780
Primer/Sealer/Undercoat	2.92	350
Quick Dry Primer/Sealer/Undercoat	4.17	500
Roof Coating	2.50	300
Sanding Sealer	4.59	550
Shellac: Clear	6.09	730
Pigmented	4.59	550
Stains: Semitransparent	4.59	550
Opaque	2.92	350
Swimming Pool Coating	5.01	600
Tile-like Glaze Coating	4.59	550
Traffic Coating	2.09	250
Varnish	3.76	450
Waterproofing Sealer	5.01	600
Wood Preservative	4.59	550
Any other architectural coating not specified elsewhere	2.09	250

1. Effective on or after December 31, 1995, no person subject to the requirements of this Section shall manufacture for sale in Louisiana any architectural or industrial maintenance coating which exceeds the volatile organic compound (VOC) emission standards set forth in this Subsection.

2. No person subject to the requirements of this Section shall sell, offer for sale, or use any architectural or industrial maintenance coating manufactured after December 31, 1995, which exceeds the emission standards set forth in this Subsection.

3. All architectural or industrial maintenance coatings shall be stored in closed containers when not in use.

4. If anywhere on a coating container, on any sticker or label affixed thereto, or in any sales or advertising literature, any representation is made that a coating is suitable for use as more than one type of coating listed in this Subsection, then the lowest VOC emission standard shall apply. This requirement does not apply to the representation of the following coatings in the manner specified:

a. high temperature industrial maintenance coatings, which may be presented as metallic pigmented coatings for use consistent with the definitions of high temperature industrial maintenance coatings;

b. metallic pigmented coatings, which may be recommended for use as primers, sealers, undercoats, roof coatings, or industrial maintenance coatings;

c. shellacs, represented in any other manner;

d. lacquer sanding sealers which may be recommended for use as sanding sealers in conjunction with clear lacquer topcoats; and

e. industrial maintenance coatings specifically formulated and marketed as rust preventative coatings, which may be represented as primers.

D. Exemptions and Exclusions

1. The requirements of this Section do not apply to:

a. architectural or industrial maintenance coatings specified in Subsection C of this Section that are sold, offered for sale, or manufactured in Louisiana for shipment and use outside of Louisiana;

b. architectural or industrial maintenance coatings sold in and applied from containers with a capacity of one liter or less; and

c. architectural or industrial maintenance coatings sold in nonrefillable aerosol containers with a capacity of one liter or less.

E. Innovative Product Exemption

1. The department shall exempt a product from the applicable VOC emission standard specified in Subsection C of this Section if the manufacturer can demonstrate to the department that due to some characteristic of the product formulation, design, delivery system, or other factor(s), the use of the product in accordance with the manufacturer's instructions will result in VOC emissions equal to or less than the VOC emissions from a product of the same product category which meets the applicable VOC emission standard. Any VOCs that remain in a product's container after the product is no longer useful for its intended purpose will be assumed to be emitted to the ambient air. An

exemption granted by the department pursuant to Subsection D of this Section may specify such terms and conditions that are necessary to ensure that the emissions from the product will not exceed the emissions from the product that was used in the demonstration. If the VOC emission standard of a product category is lowered by the department in a future rulemaking, all innovative product exemptions granted for products in that product category expire as of the effective date.

2. The manufacturer of a product manufactured before July 1, 1995, must submit an application for an innovative product exemption before September 10, 1995.

3. The manufacturer of a product not manufactured before July 1, 1995, must receive approval of its innovative product exemption application by the department before the product may be sold in Louisiana.

F. Labeling Requirements. No person subject to this Section shall manufacture for sale in Louisiana, sell, offer for sale, or apply any architectural or industrial maintenance coating specified in Subsection C of this Section in Louisiana unless:

1. the containers for all subject architectural or industrial maintenance coatings display the day, month, and year on which the product was manufactured, or a code indicating such date. The manufacturer shall supply an explanation of each code to the department, and thereafter, at least 30 days before the use of any new code;

2. the containers for all subject architectural or industrial maintenance coatings display a statement of the manufacturer's recommendation for thinning of the coating. If thinning is necessary, the recommended amount of thinner added for use under normal environmental and application conditions must not cause the coating, as applied, to exceed the applicable VOC emission standard. If thinning of the coating prior to use is not necessary for normal environmental and application conditions, the recommendation must state that the coating is to be applied without thinning under normal environmental and application conditions. This requirement does not apply to the thinning of architectural and industrial maintenance coatings with water; and

3. the containers for all subject architectural or industrial maintenance coatings display the maximum VOC content of the coating, expressed as pounds of VOC per gallon or grams of VOC per liter of coating, excluding water, exempt solvents, and any colorant added to a tint base. If any thinning is recommended on the label, the maximum VOC content displayed must be after the recommended thinning.

G. Testing Requirements

1. Any person subject to this Section shall, upon request of the department, perform or have performed tests to demonstrate compliance with Subsection C of this Section. Testing shall be conducted in accordance with LAC 33:III.6083, or by any other methods approved by the department and EPA.

2. Demonstration of compliance with the requirements of this Subsection may be accomplished through calculation of the VOC content from records of the amounts of constituents used to make the product. Compliance demonstration based on these records may not be used unless the manufacturer of

a consumer product keeps accurate records for each day of production of the amount and chemical composition of the individual product constituents. These records must be kept for at least five consecutive years and must be available to the department upon request.

H. Compliance Certification Requirements

1. Each manufacturer of a product which must comply with this Section shall submit to the department by December 31, 1995, a document which certifies that each product distributed for sale in Louisiana is in compliance with this regulation. The manufacturer of a new or existing product which is reformulated so that the VOC content is increased by more than one percent shall submit to the department, no later than the initial date of manufacture for sale in Louisiana, a document which certifies that the product is in compliance with this regulation. The certification document shall be in accordance with this Subsection and shall include, at a minimum, the following:

- a. the signature and address of the responsible official and the name and title of a designated contact person;
- b. any claims of confidentiality;
- c. product brand name, category, and form (if applicable);
- d. an explanation of the manufacturing date code, if applicable;
- e. thinning or diluting instructions as stated on the container; and
- f. any other requirements specified by the department.

2. Manufacturers of architectural or industrial maintenance coatings subject to this Section shall, in addition to submitting the information required in Subsection F of this Section, include the maximum VOC content of the coating in pounds VOC per gallon (or grams VOC per liter) less water, exempt solvents, and any colorant added to the tint base, after recommended thinning.

3. No person shall solicit or require for use or specify the application of a product that does not meet the standards specified in Subsection C of this Section.

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 21:

A public hearing will be held on December 29, 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 Thursday, January 5, 1995, 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 AQ107. Check or money order is required in advance for each copy of AQ107.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
RULE TITLE: Architectural, Industrial and Maintenance Coatings

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no significant estimated implementation cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Any costs will be associated with manufacturers' fees added to the cost of lower VOC-based coating products.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Gus Von Bodungen
Secretary
9411#045

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Lead Hazard Reduction, Licensure, Certification
(LAC 33:III.Chapters 2 and 28) (AQ100)

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.Chapters 2 and 28, (AQ100).

Chapter 28 is composed of interim regulations for lead hazard licensure and certification. All persons who perform lead hazard reduction activities are covered by this chapter, with two exceptions. Homeowners are exempt from licensing and certification requirements, and public entities are exempt from licensing. This chapter sets standards for initial and refresher training, and establishes licensing procedures in conjunction with the State Licensing Board for Contractors. Chapter 2 provides for fees to run the program in response to Act 224 of 1993.

This regulation is required by R.S. 30:2351-2351.60, Act No. 224 of the 1993 regular legislative session.

These proposed regulations are to 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 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	300.00
* * *		
[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

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 21:

Chapter 28. Lead Hazard Reduction, Licensure, and Certification Regulation

§2801. Lead Hazard Reduction, Licensure, and Certification

A. The following are interim regulations for lead hazard licensure and certification promulgated under authority of R.S. 30:2351.58. The requirement to be certified is effective 90 days after promulgation of these regulations.

B. Purpose. The purpose of this Chapter is to provide for the reduction of lead hazards through the certification of individuals performing lead hazard reduction activities and the licensure of contractors who employ such individuals.

C. Applicability. The provisions of this Chapter apply to all persons as defined in LAC 33:III.2803 who perform lead hazard reduction activities. Public entities are exempt from the requirements for licensure; however, public entities must hire licensed contractors to perform lead hazard reduction activities when the services of a contractor are needed. In the interim, homeowners are exempt from the requirements of this Chapter when performing lead hazard reduction activities in or on single-family dwellings which they own and also occupy at the time the activities are performed.

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 21:

§2803. 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:

Abatement—any set of measures designed to permanently eliminate lead hazards in accordance with standards established by the administrative authority, including:

a. the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and

b. all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

Business Entity—a partnership, firm, association, corporation, sole proprietorship, or other business concern.

Certificate (with regard to a person engaged in a lead hazard reduction activity)—a document issued by the administrative authority or under the authority of the administrative authority affirming that the person has successfully completed the training and other requirements for lead hazard reduction activities; or, with regard to a training provider, a document issued by the administrative authority affirming that the training provider meets the standards for accreditation under this Chapter.

Certified (with regard to a person engaged in a lead hazard reduction activity)—that the person has successfully completed the training and other requirements for engaging in lead hazard reduction activities as established by the administrative authority.

Inspection—

a. a surface-by-surface investigation to determine the presence of lead hazards; or

b. the provision of a report explaining the results of the investigation.

Inspector—a person certified according to the provisions of this Chapter who conducts inspections.

Lead Contractor—any person employing workers engaged in lead hazard reduction activities, as well as self-employed individuals who engage in lead hazard reduction activities.

Lead Hazard—any condition that has the potential to cause or causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the administrative authority; and shall include lead-based paint as defined by the Residential Lead-Based Paint Hazard Reduction Act of 1992.

Lead Hazard Reduction Activities—the assessment of lead hazards and the planning, implementation, and inspection of abatement activities as determined by the administrative authority; and shall include lead-based paint activities as defined by the Residential Lead-Based Paint Hazard Reduction Act of 1992.

Lead Hazard Reduction Planner—a person certified according to this Chapter who plans abatement activities.

Lead Project Supervisor—a person employed by a lead contractor to supervise workers engaged in abatement activities.

License—an authorization issued by the State Licensing Board for Contractors that allows a person to engage in certain lead hazard reduction activities.

Person—any individual, business entity, governmental body, or other public or private entity, including, to the extent not preempted by state or federal law or regulation, the federal government and its agencies.

Public Entity—the state, a parish, a municipality, or any other unit of local government, including a school board or special district authorized by law to perform governmental functions; or any agency or instrumentality of either the state or its political subdivisions.

Qualifying Party—the legal representative for the lead contractor in accordance with R.S. 37:24.2150-2164.

Worker—a person engaged in removing, covering, or replacing paint, plaster, or other material containing dangerous levels of lead, including lead-based paint activities as defined by the Residential Lead-Based Paint Hazard Reduction Act of 1992.

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 21:

§2805. Initial Training

Persons who conduct lead hazard reduction activities must be trained. Training which was received prior to promulgation of these regulations and which conforms to the content of the EPA model curricula but which does not meet the length of time specified by these regulations shall be accepted for certification unless more than two years have

elapsed since completion of such training. A closed-book examination shall be taken by all persons once the initial training course has been completed. A person seeking certification in a specific discipline shall pass the examination for that discipline prior to being eligible to receive a training certificate. A passing score shall be 70 percent. Course lengths are given in days, meaning eight-hour periods, including breaks and lunch. All courses shall be completed within 14 calendar days of the commencement of the course.

A. Lead Hazard Reduction Planners. Persons who plan or design abatement activities shall receive training which must include, at a minimum, the EPA Model Curriculum Supervisor Course [HUD User document #AVI6059; five days (40 hours)] and the following topics which shall be taught in a 16-hour course:

1. hazard report interpretation;
2. worker protection/worker safety;
3. environmental safety;
4. project design (integration with design abatement strategy; remodeling/renovations; cost estimation);
5. construction techniques;
6. abatement methods (selection of abatement methods; knowledge of abatement equipment and materials);
7. operations and maintenance planning;
8. cleanup;
9. clearance testing;
10. waste disposal; and
11. insurance and liability.

B. Inspectors. Persons who perform inspections shall receive training which must include, at a minimum, the criteria contained in the EPA Model Curriculum Inspector Course (HUD User Document #AVI6141). This course shall be taught for a minimum of four days (32 hours).

C. Supervisors. Persons who supervise abatement activities shall receive training which must include, at a minimum, the criteria contained in the EPA Model Curriculum Supervisor Course (HUD User document #AVI6059). This course shall be taught for a minimum of five days (40 hours).

D. Workers. Persons who perform abatement activities shall receive training which must include, at a minimum, the criteria contained in the EPA Model Curriculum Worker Course (HUD User Document #AVI6501). This course shall be taught for a minimum of four days (32 hours).

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 21:

§2807. Refresher Training

Persons seeking to remain certified shall successfully complete a refresher training course annually. The refresher course must be in the same discipline as the initial training course. Such course shall not be less than eight hours in length and shall include instruction in current federal and state regulatory developments as well as state-of-the art procedures for conducting lead hazard reduction activities. The deadline for completing the required refresher training shall be the anniversary of the completion of the initial training for the certification category. It is a violation of this Chapter for a

person to do lead hazard abatement work with an expired training certification.

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 21:

§2809. Certification

A. Certification Categories

1. Persons who plan or design abatement activities must be certified as lead hazard reduction planners.

2. Persons who perform inspections must be certified as inspectors.

3. Persons who supervise abatement activities must be certified as supervisors.

4. Persons who perform abatement activities must be certified as workers.

B. Certification Procedure. Persons seeking certification shall submit the following to the department:

1. a completed lead certification application form;

2. a copy of the initial training certificate and any subsequent refresher training certificates which demonstrate proof of completion of the required training; and

3. the required fees as outlined in LAC 33:III.223. Persons who are employed by public entities shall not be required to pay certification fees.

NOTE: The required documentation and applicable fees must be sent to the Louisiana Department of Environmental Quality, Air Quality Division/Lead Program, P.O. Box 82135, Baton Rouge, LA 70884-2135. Make checks payable to the Louisiana Department of Environmental Quality and indicate that payment is for the lead program certification.

C. Certifications issued by the department are valid for 12 months from date of issuance. Only persons holding valid certificates may conduct regulated lead hazard reduction activities.

D. Certification may be denied for:

1. failure to submit the required documentation and fees;

2. submission of inaccurate or falsified information; or

3. failure to comply with LAC 33:III.Chapter 28 and other applicable federal, state, and local regulations.

E. Revocation of Certification. Certification may be revoked for:

1. failure to comply with LAC 33:III.Chapter 28 and other applicable federal, state, and local regulations;

2. failure to submit valid certification application and training documents; or

3. failure to possess proof of certification while conducting regulated activities.

F. Certification Renewal. Each certification shall expire 12 months after the date of issuance of certification. Persons may apply to the department for the renewal of a certification. If a refresher course is not completed within two years of the last course completion date, the initial training courses must be retaken for certification. To qualify for renewal of a certification, the applicant shall submit to the department:

1. a completed lead certification application form;

2. the appropriate fee as prescribed in LAC 33:III.223;

3. evidence of completion of any required refresher training; and

4. a signed statement disclosing any citation for violation of any environmental law or regulation. If no citations have been received since the previous certification application, that fact shall be stated. The disclosure shall include evidence that all penalties and fees assessed to the applicant have been paid in full.

G. Prohibitions

1. The alteration or possession of altered certificates is prohibited.

2. The submission of any false statement, representation, or certification in any form, application, report, plan, or any other document is prohibited.

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 21:

§2811. Licensure

A. Obtaining a license is a two-step procedure involving first the department, then the State Licensing Board for Contractors. Lead contractors must be licensed. Licenses shall be issued by the State Licensing Board for Contractors to applicants meeting the requirements of this Section and of the State Licensing Board for Contractors. In order to qualify for a license, a lead contractor must certify that Subsection A.1-6 of this Section has been met. Contractors who submit this certification along with the appropriate fees, as required in LAC 33:III.223, shall be eligible for licensure by the State Licensing Board for Contractors, subject to its approval. The department shall notify the State Licensing Board for Contractors that the following requirements of this Section have been met:

1. that each person who conducts lead hazard reduction activities is familiar with all applicable state and federal standards for lead hazard reduction activities;

2. that each person who conducts lead hazard reduction activities has successfully completed discipline-specific training in accordance with LAC 33:III.2805;

3. that each person who conducts lead hazard reduction activities is certified annually in accordance with the provisions of LAC 33:III.2809;

4. that the lead contractor has access to at least one disposal site approved by the department to receive lead-contaminated waste that may be generated by that contractor during the term of the license;

5. that the lead contractor will utilize a compliance program consistent with the United States Occupational Safety and Health Administration requirements; and

6. that the lead contractor possesses a worker protection and medical surveillance program consistent with the requirements of the United States Occupational Safety and Health Administration.

B. License applications may be denied for:

1. failure to submit the required documentation and fees;
2. submission of inaccurate or falsified information; or
3. failure to comply with LAC 33:III.Chapter 28 and other applicable federal, state, and local regulations.

C. License Renewal. Each license shall expire December 31 of the year in which it is issued in accordance with the

provisions of R.S. 37:24.2150-2164. Licensees may apply to the State Licensing Board for Contractors for the annual renewal of a license. In order for renewal to be granted when applications are received more than two years following expiration of the previously issued license, initial licensing procedures must be followed (see Subsection A.1-6 of this Section). To qualify for renewal of a license, the lead contractor shall submit to the State Licensing Board for Contractors those fees and/or documentation required by the board. The lead contractor shall also submit to the department:

1. a signed statement disclosing any violations of state or federal regulations for which the lead contractor may have been cited by a state or federal regulatory agency. If no citations were received during the previous year, that fact shall be stated. The disclosure shall include evidence that all penalties and fees assessed to the lead contractor have been paid in full; and

2. a statement certifying that the lead contractor has renewed his license with the State Licensing Board for Contractors, indicating the date upon which renewal became effective. The contractor must also make written declaration that all of his employees are certified in accordance with the provisions of LAC 33:III.2809. The department must receive this statement within 30 days of the renewal date and the statement must be signed by the lead contractor's qualifying party.

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 21:

§2813. Certification and Licensure Approval Application Fees

Applicable fees for certification or licensure shall be paid by check or money order upon application. A schedule of fees for the lead hazard disciplines is found in LAC 33:III.223. A person applying for certification for more than one category shall pay only the fee for the highest category.

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 21:

A public hearing will be held on December 29, 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 Thursday, January 5, 1995, 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

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Lead Hazard Reduction,
Licensure and Certification**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
Expenses for the Lead Program are estimated at \$319,880.
- 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 \$315,850. 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. An additional grant of \$88,944 from EPA is expected in the autumn of 1994.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
The estimated costs to affected persons or nongovernmental groups are estimated to be \$315,850 initially, decreasing to \$291,100 in subsequent years. These figures reflect certification, license approval application, and annual maintenance 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.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
The estimated effect on competition is expected to be positive, due to an increased pool of trained, certified, and/or licensed lead abatement professionals, and overall employment is expected to benefit from the certification and licensure regulations.

Gus Von Bodungen
Assistant Secretary
9411#074

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Radiologic Technology Board of Examiners**

Continuing Education (LAC 46:LXVI.Chapter 7)

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 Health and Hospitals, Radiologic Technology Board of Examiners (board), pursuant to the authority vested in the board by R.S. 37:3207, intends to adopt LAC 46:LXVI.Chapter 12, regarding requirements for continuing education for licensed radiologic technologists.

Title 46

Chapter 12. Radiologic Technologists Continuing Education Requirements for License Renewal

§1201. Definitions

AMA/CME—American Medical Association/Continuing Medical Education.

ARDMS—American Registry of Diagnostic Medical Sonographers.

ARRT—American Registry of Radiologic Technologists.

ASRT—American Society of Radiologic Technologists.

Active Status—radiologic technologists who maintain their license by paying an initial or renewal fee and are listed in good standing with the LSRTBE.

Approved Academic Course—a formal course of study offered by an accredited postsecondary educational institution in the biological sciences, physical sciences, radiologic sciences, health and medical sciences, social sciences, communication (verbal and written), mathematics, computers, management or education methodology.

Approved Continuing Education Activity—an educational activity which has received approval through a recognized continuing education evaluation/mechanism. Examples include: LSRTBE/ECE, LSRT/ECE, ASRT/ECE, AMA/CME, and SNM-TS/VOICE. Courses meeting this definition are awarded Category A continuing education credits. Activities meeting the definition of an approved academic course will be awarded credit at the rate of 16 CE credits for each academic semester credit and 12 CE credits for each academic quarter credit. An official transcript showing a grade of "C" or better is required to receive CE credit for an academic course.

CPR—Cardio-Pulmonary Resuscitation. Valid and current CPR, basic life support, advanced life support, instructor or instructor trainer certification will be recognized as six Category A credit hours per two-year licensing period.

Category A Credit—educational activity which qualifies as an approved continuing educational activity as defined in this document.

Category B Credit—educational activities not approved for Category A credits may be eligible to receive Category B credits provided that the activities are pertinent to the radiologic technology fields and the LSRTBE has given written approval to these activities.

Continuing Education (CE)—educational activities which serve to improve and expand the knowledge and skills underlying professional performance that a radiologic technologist uses to provide services for patients, the public or the medical profession.

Continuing Education Credit (CEC)—a unit of measurement for continuing education activities. One continuing education credit is awarded for each 50- to 60-minute educational activity. Educational activities of 30 to 49 minutes of duration will be awarded one-half of a credit.

Directed Reading—reading of recent professional journal articles and self-assessment testing to demonstrate comprehension of the material read. The directed readings must be offered through a postsecondary educational institution or as an approved continuing education activity.

Documentation—proof of participation in a particular educational activity. Documentation shall include: the category of activity (either A or B), dates of attendance, title and content of the activity, number of continuing education credits, the signature of the instructor or a representative of the organization sponsoring the activity, and a reference number if the activity has been approved by a RCEEM.

Educational Activity—a learning activity which is planned, organized, and administered to enhance professional knowledge and skills. These include, but are not limited to, meetings, seminars, workshops, courses or programs.

Eligible for Renewal Status—a radiologic technologist who has completed all requirements for the renewal of a Louisiana radiologic technologist license is considered to be eligible for renewal status.

Expired Status—a radiologic technologist who fails to meet the continuing education requirements for renewal prior to or during probational status shall be placed on expired status and his or her license shall be considered suspended. The radiologic technologist will no longer be considered as holding a valid license in the state of Louisiana.

Inactive Status—classification of license where the LSRTBE waives renewal fees to those licensees who confirm in writing to the board that they are not actively employed in the state of Louisiana as radiologic technologists. Those licensees who are on inactive status are not required to participate in any continuing education policies. However, should these licensees seek to reactivate their license they will be required to meet the same continuing education requirements of all active licensees.

Independent Study (only available for Category A credit)—an educational activity offered by an accredited postsecondary educational institution or a comparable sponsor wherein the participant independently completes the objectives and submits the required assignments for evaluation. Independent study may be delivered through various formats such as directed readings, videotapes, audio-tapes, computer-assisted instruction and/or learning packets.

In-Service Education—a planned and organized educational activity provided by an employer in the work setting.

Ionizing Radiation—commonly known as X-rays or Gamma Rays, they remove electrons from the atoms of matter lying in their path (e.g., *ionization*).

LSRT—Louisiana Society of Radiologic Technologists.

LSRTBE—Louisiana State Radiologic Technology Board of Examiners (board).

Licensing—the process of granting a license attesting to the demonstration of qualifications in a profession.

Licensing Term—the LSRTBE issues licenses to radiologic technologists for two-year terms. All renewal licenses are issued on June 1 and expire on May 31 of the second year of their issuance.

NMTCB—Nuclear Medicine Technology Certification Board.

Probational Status—radiologic technologists who apply for the renewal of their Louisiana Radiologic Technology License but who fail to meet the continuing education renewal requirements will be placed on a probational status. Probation shall not exceed a period of six months beyond the expiration date of a license.

Recognized Continuing Education Evaluation Mechanism (RCEEM)—a mechanism for evaluating the content, quality, and integrity of an educational activity. The evaluation must include review of educational objectives, content selection, faculty qualifications, and educational methods and materials. Among the requirements for qualifying as a RCEEM, an organization must be statewide or national in scope, nonprofit and radiology based.

Example: RCEEMs include: AMA/CME system, LSRTBE/ECE, LSRT/ECE, ASRT/ECE system, SDMS/CME and SNM-TS/VOICE system.

Reinstatement—those radiologic technologists on inactive status or those radiologic technologists who have been placed on expired status may be eligible to become licensed again by applying for reinstatement. Reinstatement and the requirements thereof shall be determined by the board on an individual basis.

SDMS—Society of Diagnostic Medical Sonographers.

SNM-TS/VOICE—Society of Nuclear Medicine-Technologist Section/Verification of Involvement in Continuing Education.

Sponsor—an organization responsible for the content, quality and integrity of the educational activity, which plans, organizes, supports, endorses, subsidizes and/or administers educational activities. Sponsors may be, but are not limited to, state, national, regional and district professional societies, academic institutions, health care agencies, health care facilities, federal or state government agencies. Sponsors must apply and receive approval from a RCEEM in order to offer Category A credit for activities.

Suspension/Suspended—license status whereby the radiologic technologist is not allowed to practice where a license is required by law.

Teleconference—a planned educational activity delivered by a closed-circuit television system.

§1203. Renewal of License

Effective June 1, 1997, the LSRTBE will require that those licensees applying for renewal of license shall have, in the preceding two-year period, participated in and completed the continuing education requirements, and/or board-approved alternatives as set forth below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:

§1205. Continuing Education Requirements

Twenty-four hours of continuing education credits must be earned per licensing term to meet the continuing education requirements. At least 12 of these credits must be from Category A activities. Credits earned in excess of 24 per licensing term may not be carried over into the next licensing term. The continuing education requirement is independent of the number of licenses held by an individual (i.e., a radiologic technologist certified in both radiography and radiation therapy technology needs only 24 credits). The LSRTBE will recognize only 12 credits of continuing education from sources that are not directly related to ionizing radiation.

Example: If a person is a licensed radiographer but primarily practice as an ultrasonographer, LSRTBE will recognize up to 12 hours of CE that is ultrasound specific. The remaining 12 hours must be specific to a modality that employs ionizing radiation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:

§1207. Licensing Term Schedule

Since the licensing term is defined as that period from June 1 of a renewal or issuance of license year, to the second May 31 to occur after that date, the continuing education credits must be earned in the two years prior to the second occurrence of May 31.

Example: radiologic technologists who renew their license June 1, 1995 will be required to meet the continuing education requirements from June 1, 1995 to May 31, 1997 in order to renew their license in 1997. Radiologic technologists who renew their license June 1, 1996 will be required to meet the continuing education requirements in order to renew their license in 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:

§1209. Renewal of License By Examination

A. Radiologic technologists who pass one of the advanced-level examinations or entry-level examinations in a different category within a licensing term are exempt from the continuing education requirement for that licensing term.

B. Subsequent renewal of license will require documentation of 24 hours of active participation in continuing education activities for the following licensing term and every two years thereafter, unless another examination is passed.

1. Example: A radiographer in good standing who has passed the nuclear medicine examination or the radiation therapy examination given in March 1997 does not have to complete the 24 hour continuing education requirement for the licensing term from June 1, 1995 to May 31, 1997. However, beginning June 1, 1997, the radiologic technologist must document continuing education credits for the licensing term of June 1, 1997 to May 31, 1999.

2. Example: A radiographer in good standing who has passed an advanced examination in a modality not specific to the use of ionizing radiation (MRI, ultrasound), but recognized as being within the profession of radiologic technology, will be awarded no more than 12 CE credits per licensing period.

Therefore, the radiographer who passes the MRI advanced examination will be awarded 12 hours but still has to receive 12 hours of CE specific to ionizing radiation to total the 24 hours of CE required to renew the radiographers license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:

§1211. Biannual Application for License Renewal

An application for the renewal of the license will be mailed to each radiologic technologist whose license to practice radiologic technology will expire that May 31 with the license fee due. Included on the renewal application will be an area to state the number of continuing education credits accrued for that licensing term up to that date. Radiologic technologists are required to provide copies of documentation of participation in the specified educational activity which shall be included with the license renewal application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:

§1213. Documentation

A. A licensed radiologic technologist is required to maintain proof of participation in continuing education activities and is required to attest to this participation on the renewal form. Said documentation shall be provided by the radiologic technologist to Louisiana State Radiologic Technology Board of Examiners as part of the renewal process. Failure to provide documentation acceptable to the Louisiana State Radiologic Technology Board of Examiners will result in probational status. The Louisiana State Radiologic Technology Board of Examiners will accept copies of documents. Original documents shall be kept by the radiologic technologist for two years after the end of the licensing term for the purpose of further verification should the board choose to audit the licensees' submissions.

B. Documentation of participation in Category A continuing education activities must be on a form provided by a recognized continuing education evaluation mechanism (RCEEM) or must clearly indicate the information needed to identify the activity as having been approved by a recognized continuing education evaluation mechanism (RCEEM). Documentation must include dates of attendance, title of the activity, contact hours for the activity, the reference number if the activity has been approved by a RCEEM and the signature of an authorized representative of the sponsor issuing the documentation.

C. Documentation of participation in Category B activities must be an itemized form and must include dates of attendance, title of the activity, contact hours for each activity and the signature of the instructor or an official representative of the sponsor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:

§1215. Applicants for Renewal Who Fail to Meet CE Requirements

A. A radiologic technologist who applies for renewal of

license, but who fails to meet the renewal requirements within the previous licensing term, will automatically be transferred to a probational status. Individuals who are listed as having a probational status, due to failure to meet these renewal requirements, will receive an identification card indicating "probational" status. This status will be indicated in the *Directory of Licensed Radiologic Technologists* published by the Louisiana State Radiologic Technology Board of Examiners and will be reported in response to any inquiries regarding the radiologic technologist's status with the Louisiana State Radiologic Technology Board of Examiners. The Louisiana State Radiologic Technology Board of Examiners will notify the current employer of record of the radiologic technologists probational status.

B. Radiologic technologists who have renewed but are classified as being on probational status due to not meeting the continuing education renewal requirements may be returned to an approved status by one or more of the following:

1. passing an advanced level examination recognized by the LSRTBE;
2. passing an entry-level examination recognized by the LSRTBE in a different category;
3. completing the required continuing education hours in the six months (on or before December 31) following the May 31 expiration date.

C. Any hours completed or other requirements met during the probation term may not be used to meet the continuing education requirements for the subsequent license term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21: §1217. **Probational Fee Structure**

A. The board shall impose the following probational fees on those licensees who are placed on probational status:

All or part of June:	\$ 5.00
All or part of July:	25.00
All or part of August:	50.00
All or part of September:	75.00
All or part of October:	100.00
All or part of November:	150.00
All or part of December:	200.00

B. A license with a probational status which is not brought into compliance within the six-month period (on or before December 31) will be considered "suspended" by the Louisiana State Radiologic Technology Board of Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:

§1219. Reinstatement of License

A. If a license lapses or is inactive for a period of less than four years and if the person is otherwise eligible for renewal of license, the person must supply evidence of having met the continuing education requirements (e.g., 24 credits) for each

of the prior licensing terms and pay the designated standard renewal fee and any other associated fees deemed due by the board.

B. If a license lapses or is inactive for a period of four or more years and if the person is otherwise eligible for renewal of license, the individual must pass the entry-level examination and pay the designated special reinstatement fee. Reinstatement via continuing education is not an option in this situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21: §1221. **Requirements for Sponsors**

A. Sponsors must submit documentation on the quality and integrity of the educational activity to be considered for Category A credits by having the educational activity approved through a recognized continuing education evaluation mechanism (RCEEM). All activities which meet the Louisiana State Radiologic Technology Board of Examiners definition of an educational activity and which do not meet Category A requirements are defined as Category B.

B. The following examples of educational activities are recognized as enhancing the knowledge, skills and attitudes underlying the professional performance of radiologic technologist:

1. panel discussions;
2. professional development educational activities;
3. presentations;
4. meetings, seminars, workshops or conferences;
5. teleconferences;
6. academic courses;
7. fellowships;
8. independent study;
9. directed reading;
10. specialty programs or courses, e.g., cardiovascular, mammography, etc.;
11. in-service programs, tumor boards, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:

Interested persons may submit written comments on this proposed rule to Richard S. Whitehorn, L.R.T., Executive Director, Louisiana State Radiologic Technology Board of Examiners, 3108 Cleary Avenue, Suite 207, Metairie, LA 70002. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Richard S. Whitehorn, L.R.T.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated implementation of costs or savings to the Louisiana State Radiologic Technology Board of Examiners or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Louisiana State Radiologic Technology Board of Examiners or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be minimal added cost to licensees and revenue to the providers of the continuing education programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Richard S. Whitehorn
Executive Director
9411#008

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of Motor Vehicles

Driver's License Renewal by Mail (LAC 55:III.129-141)

In accordance with the provisions of R.S. 32:412(D) and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of Motor Vehicles proposes to adopt the following rules.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

§129. Renewal by Mail

The Office of Motor Vehicles shall send an invitation to each person qualified to renew his driver's license by mail. This invitation shall be mailed to the last known address of the qualified person 100 days prior to expiration of the person's driver's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicle, LR 21:

§131. Disqualifications for Mail Renewal Applicants

A person is not qualified to renew his driver's license by mail if the individual's driving record indicates that, within four years preceding the date of application, the individual has been convicted of the following moving violations:

1. Failure to Render Aid
2. Hit and Run
3. Reckless Driving

4. Speeding
5. Improper Passing
6. Making Improper Turn
7. Improper Lane Changing
8. Failure to Yield
9. Failure to Signal
10. Careless Driving
11. Negligent Injury
12. Following Too Closely
13. Failure to Dim Headlights
14. Failure to Leave Sufficient Distance
15. Following Emergency Vehicle Unlawfully
16. Failure to Keep in Proper Lane
17. Improper Entry to/Exit from Traffic
18. Improper Starting from Parked Position
19. Improper Backing
20. Crossing Fire Hose
21. Passing on Wrong Side
22. Passing in a No Passing Zone
23. Failure to Yield to Passing Vehicle
24. Coasting with Gears Disengaged
25. Failure to Yield to Emergency Vehicle
26. Failure to Yield to Unsigned Intersection
27. Failure to Yield to Pedestrians
28. Failure to Follow Officer's Instruction
29. Passing through Barricade
30. Failure to Observe Safety Zone
31. Drag Racing
32. General Speeding or Too Fast for Conditions
33. Speed Less than Posted Minimum
34. Making Right Turn from Left Lane
35. Making Left Turn from Right Lane
36. Driving Without Proper Driver's License
37. Wrong Way on One Way Street
38. Driving on Wrong Side of Road
39. Driving Wrong Direction on Rotary
40. Leaving the Scene of an Accident
41. Evading Citation or Roadblock
42. Failure to Maintain Control
43. Driving Without Headlights

The above cited convictions are in addition to those disqualifying convictions enumerated in R.S. 32:414.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:

§133. Further Disqualifications

A person shall not be qualified to renew his driver's license by mail if:

1. the applicant is 70 years of age or older prior to 100 days before the expiration of the driver's license;
2. the applicant indicates on the mail-in renewal application form that there have been changes or additions since the last renewal including any physical condition or vision change which does not meet departmental standards;
3. if the renewal application is not notarized and properly signed;
4. if the applicant's driving record indicates a pending suspension, or a pickup order for the license has been issued,

or the record has a notation of "no insurance" or "petition."
AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21

§135. Eye Examination Requirements

The affidavit submitted by the applicant, with regard to the eye examination, shall include a statement as to the visual acuity of each eye of the applicant and as to the visual acuity of both eyes combined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:

§137. Renewal Stickers

Upon receipt of an application which complies with the requirements set out by law and rule, the Office of Motor Vehicles will issue a renewal sticker to be affixed to the side of the license containing the Restriction and Endorsement Code. Applicants who apply for renewal and who fail to receive a sticker within 35 days of application must contact the Office of Motor Vehicles either in writing or in person within 60 days from the date of license expiration to qualify for a free replacement sticker or free retake of the pictured license. If the applicant does not contact the department by the sixtieth day, he will be required to pay for a duplicate license or sticker at a cost of \$5 plus a \$5.50 handling fee. These written requests are to be directed to the Vehicle Renewal Unit, P.O. Box 64886, Baton Rouge, LA 70896.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:

§139. Delinquent Fees

If the return of the original renewal application is postmarked 11 days or more after the date of expiration of the person's driver's license, a delinquent fee of \$15 will be charged in addition to all other applicable fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:

§141. Method of Payment

All money submitted with an application must be in the form of a money order, cashier's check or certified check.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:

All interested person are invited to submit written comments on the proposed regulations. Such comments should be submitted not later than December 31, 1994 at 4:30 p.m. to John Politz, Assistant Secretary, Department of Public Safety and Corrections, Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896 or 109 South Foster Drive, Baton Rouge, LA 70806.

Paul W. Fontenot
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Driver's License Renewal by Mail

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that the cost of implementation will be approximately \$160,000 in FY 94-95 and \$10,000 in future years to be paid with agency self-generated revenues. FY 94-95 costs include one-time acquisition costs (\$130,000).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This program will have no effect on revenue collections of state or local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
If approximately 350,000 to 400,000 individuals take advantage of this program, they will be subject to cost in notary fees and visual examinations. The cost would depend on notary and visual specialist fees.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment will not be affected.

Rex McDonald
Undersecretary
9411#067

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Gaming Enforcement Section

Video Draw Poker (LAC 42:XI.Chapter 24)

The Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, in compliance with and under the authority of R.S. 49:950 et seq. and R.S. 33:4862.1 et seq., hereby gives notice of its intent to amend Chapter 24 pertaining to the operations of video draw poker devices and the regulation and licensing of manufacturers, distributors, owners/operators, service entities, and other persons wishing to participate in the video draw poker gaming industry in Louisiana, as outlined below:

Title 42

LOUISIANA GAMING

Part XI. Poker

Chapter 24. Video Draw Poker

§2401. Policy

§2403. Definitions

§2405. Licenses

- A. Application
- B. Requirements for Licensing
- C. Reinstatement Requirements
- D. Change of Ownership of Licensed Establishment
- E. General Provisions

§2407. Games

- A. Video Draw Poker
- B. Operations of Video Draw Poker Games

- C. Prizes or Authorized Wagers
- D. Inspections
- §2409. Revenues
 - A. License Fees
 - B. Device Operational Fees
 - C. Franchise Payments
 - D. Parish or Municipal Licenses
 - E. Supplement Purses for Horsemen
 - F. Methods of Payment, Fines, and Net Device Revenues
 - G. Authority to Audit Records
- §2411. Regulatory Communication and Responsibilities
 - A. Licensed Establishments
 - B. Licensed Manufacturers
 - C. Licensed Distributors
 - D. Licensed Device Owner
 - E. Licensed Service Entities
- §2413. Devices
 - A. Device Specifications
 - B. Device Modifications
 - C. Enrolling Procedures
 - D. Requirements for Video Gaming Devices Manufactured in Louisiana
 - E. Inspection of Devices
 - F. Testing of Video Gaming Devices
 - G. Disabling or Seizure of Devices
 - H. Maintenance
- §2415. Gaming Establishments
 - A. Facility License
 - B. Operations of Facilities
 - C. Security
 - D. Payment of Prizes
 - E. Structural Requirements for Licensed Facilities
 - F. Device Placement
 - G. Illicit Activities Prohibited
- §2417. Activities Affecting General Public
 - A. Minors
- §2419. Forms and Reporting Requirements
 - A. Forms
 - B. Applications
 - C. Reporting Requirements
- §2421. Code of Conduct of Licensee
- §2423. Investigations
 - A. General
 - B. Background Investigations
 - C. Specific Unsuitable Actions
 - D. Information
 - E. Inspection
 - F. Compliance with Existing Laws
 - G. Gaming Activity
 - H. Criminal Activity
- §2425. Miscellaneous
 - A. Special Investigations and Inspections
 - B. Written Reprimands and Required Meetings
 - C. Additional Causes for Disciplinary Actions
 - D. Security Interest Holder
 - E. Purpose
 - F. Disposition of Secured Assets
 - G. Operation of Trust
 - H. Required Provisions of Trust Instrument
 - I. Variance to the Rules

§2427. Hearings and Sanction Procedures

- A. General
- B. Procedure

§2429. Severability Clause

The complete set of regulations, LAC 42:XI.Chapter 24 may be obtained from the Office of State Police, Video Gaming Division, Box 66614 (Mailstop No. 12), Baton Rouge, LA 70896, (504) 925-1900 or from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802. Please refer to 9411#036 when requesting these rules.

A public hearing will be held on the proposed rules and regulations on December 27, 1994, commencing at 9 a.m., at the Louisiana State Police Training Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, LA

Interested persons may submit written comments to the Office of State Police, Video Gaming Division, Box 66614 (Mailstop No. 12), Baton Rouge, LA 70896. Lieutenant Kendall Fellon is the person responsible for responding to inquiries regarding the proposed rules and regulations. Written comments will be accepted through the close of business, 4:30 p.m. on December 20, 1994.

Colonel Paul Fontenot
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Video Poker

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The division will incur minimal expenditures related to additional administrative requirements, which can be carried out with existing staff and resources.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated revenue increase is based on projections due to regulatory changes. The net effect on state government will be \$9,116,611. The net effect on local governmental units will be \$3,774,276.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

All video gaming licensees and future applicants for a video gaming license will be affected by the increase in renewal fees, licensing fees, and the implementation of a processing fee as well as an increase in the franchise payments for all licensees except racetracks and offtrack betting facilities. Certain license holders and potential license holders may be required to spend additional funds to ensure their establishments conform to division standards.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no measurable economic impact on competition and employment as a result of this change in the video poker regulations.

Rex McDonald
Undersecretary
9411#036

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Revenue and Taxation Sales Tax Division

Nonresident Contractor Registration (LAC 61:I.4373)

Under the authority of R.S. 33:2847 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, proposes to adopt LAC 61:I:4373 pertaining to the registration of nonresident contractors.

For each contract performed on immovable property, nonresident contractors are required to register and pay a \$10 fee and to provide a surety bond to cover any state and local taxes due. To ensure that taxes due by nonresident contractors are paid to state and local governments, Act 1026 of the 1993 Regular Session of the Legislature directed the secretary of the Department of Revenue and Taxation to promulgate rules to establish standards for the assessment and collection of local sales taxes from nonresident contractors; to provide for the enforcement of the rules; and authorize the withholding of state funds from local government subdivisions within parishes where the local government has failed to comply with the rules. This rule provides for the administration of the nonresident contractor program.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 43. Sales and Use Tax

§4373. Nonresident Contractors

A. General. This Section provides the procedures that must be followed by nonresident contractors who do business in this state as required by R.S. 47:9 and R.S. 47:306(D). This Section also provides the procedures that must be followed by state and local agencies charged with the responsibility for granting permits and/or licenses for the lawful commencement of construction contracts in this state as required by R.S. 33:2847. This Section also provides the necessary definitions.

B. Definitions. For the purposes of this Section, the following terms are defined:

Contractor—any dealer, as defined in this Chapter, who enters into contracts for the construction, renovation, or repair of immovable properties, such as buildings, houses, roads, levees, pipelines, and industrial facilities. It also includes subcontractors who enter into similar agreements with a general or prime contractor. The term contractor shall not include businesses that fabricate or construct property that is sold to another person as tangible personal property, even though the property may be subsequently incorporated into the construction of an immovable. The term contractor shall include any project owner who obtains any permit, license, or certificate necessary for the lawful commencement of any construction contract.

Nonresident Contractor—any contractor who does not meet any of the following criteria for resident status.

a. For an individual proprietorship, resident status requires having maintained permanent domicile in Louisiana for at least one year prior to bidding on work.

b. For a corporation, resident status requires having operated a permanent business facility in Louisiana for at least one year prior to bidding on work; or having at least 50 percent of its outstanding and issued common stock owned by individuals who have maintained their domicile in Louisiana for at least one year prior to bidding on work.

c. For partnerships and other legal entities, resident status requires at least 50 percent ownership by individuals or corporations who themselves qualify as residents.

Resident Contractor—all contractors that are not nonresident contractors.

C. Contracts to be Registered with Secretary and Central Collector

1. Prior to obtaining a building permit necessary for the lawful commencement of any contract in Louisiana, a nonresident contractor shall register each contract that exceeds \$3,000 in total price or compensation with the secretary of the Department of Revenue and Taxation and with the central sales and use tax collector for the parish in which the project is located. The secretary shall provide the necessary forms for the contractors to register each contract. The forms will require the nonresident contractor to give a complete description of each project, pertinent tax registration data, and a list of anticipated subcontractors. A fee of \$10 per contract shall be paid to the secretary at the time of registration. As required by the secretary, the contractor shall furnish a surety bond for each contract or a blanket surety bond for all contracts. The bond shall be for an amount equal to 5 percent of the total contract price, or \$1,000, whichever is greater, for each contract. Upon satisfactory completion of the registration and surety bond requirements, the secretary shall issue the contractor a certificate of compliance with which to obtain any building permits necessary for lawful commencement.

2. Following the satisfactory registration of contracts with the secretary, the contractor shall submit copies of all registration, tax, and surety bond information to the appropriate parish central sales and use tax collector, except in Cameron Parish. In Cameron Parish, the nonresident contractor is to submit the necessary information to the parish police jury. The collector or police jury may require the contractor to supply additional information necessary to ensure that the contractor and his subcontractors are registered for and remit any applicable sales/use and occupational license taxes. Upon satisfactory completion of this requirement, the collector or police jury will issue the contractor a certification of compliance with which to obtain any building permits necessary for lawful commencement.

3. Nonresident subcontractors will be held to the same requirements of registration, payment of a \$10 fee, and furnishing a surety bond, even though they may not need to secure any permits.

D. Payments to be withheld from subcontractors. R.S. 47:9(B)(3) makes each contractor subject to this provision responsible for all of its subcontractors' compliance with all state and local tax laws. A contractor shall inform each of its subcontractors of their tax registration, contract registration,

and surety bond requirements, and shall withhold a sufficient amount from payments made under their contracts to ensure compliance. Upon discovering any unpaid tax liability by a subcontractor, the secretary will first attempt to collect the unpaid taxes from the subcontractor or his surety. However, if the secretary's efforts are unsuccessful, the contractor and his surety have ultimate responsibility for the payment of any subcontractor's unpaid tax liabilities.

E. Contract Completion; Cancellation of Surety Bond. Within 30 days after completion of each contract, the contractor shall submit to the secretary a completion report summarizing the costs incurred; the taxes paid to other states, to the state of Louisiana, and to local taxing authorities; and other such information that may be required by the secretary. After reviewing the report and verifying the tax payment amounts reported, the secretary shall refer the summary to the central sales and use tax collector for the parish in which the project is located to determine whether there are any unpaid local tax liabilities. If no unpaid state or local tax liabilities are discovered, the contractor's surety bond may be canceled for that contract. The surety bond will be held by the Department of Revenue and Taxation and used, if necessary, in the future if sales taxes are later found to be due on that contract.

F. Compliance by Permitting Agencies; Withheld Funds Authorized

1. R.S. 47:9(B)(4) and R.S. 47:306(D)(2)(a) place specific responsibilities with state or local agencies that issue permits, licenses, or certificates necessary for the lawful commencement of any construction contract. State agencies, including but not limited to the office of the state fire marshal, and agencies of local governing authorities, including but not limited to parish and municipal building inspectors, shall not issue any building permit, license, or certificate until the applicant has submitted documentation verifying that the contract has been properly registered and the required surety bond has been posted. Proper documentation to be obtained from the secretary of the Department of Revenue and Taxation is as follows.

a. Resident contractors must obtain a certificate of resident status.

b. Nonresident contractors must obtain a certificate of compliance.

c. Individuals seeking a permit for work to be performed on their residence must submit an affidavit as documentation of residency.

2. The secretary is authorized by R.S. 33:2847(B) to evaluate and monitor parish and municipal permitting agencies to ensure compliance with these provisions.

a. When the secretary discovers that a parish or municipal permitting office has issued a permit to a nonresident contractor without verifying compliance with the provisions of this regulation, he shall notify that permitting office, the parish collector, and the governing authority of the parish of the violation by registered mail.

b. The affected parties will be allowed 60 days to respond to the department's notification. If the affected parties contact the department after receiving notification, the

department will work with them to reconcile the situation. If the situation is resolved, no further action will be taken.

c. If an agreement cannot be reached or if the department does not receive a response after 60 days, the secretary will notify the state treasurer of the violation by registered mail. A copy of this notification will be sent to the permitting office, the parish collector, and the governing authority of the parish.

d. The state treasurer, within 90 days of notification, shall request a hearing on the suspected violation with the House Committee on Ways and Means. The date, time, and location of this meeting will be furnished by the state treasurer to the permitting office, the parish collector, the governing authority of the parish, and the secretary of the Department of Revenue and Taxation by registered mail. Following the hearing, the state treasurer shall take action as directed by the committee, including the withholding of state funds as authorized by R.S. 33:3847(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2847, R.S. 47:9, and R.S. 47:306.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 20:

All interested persons may submit data, views, or arguments, in writing to Raymond Tangney, Director of the Sales Tax Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821. All comments must be submitted by 4:30 p.m., Wednesday, December 28, 1994. A public hearing will be held on Thursday, December 29, 1994, at 1:30 p.m. in the Department of Revenue and Taxation Secretary's Conference Room, 330 North Ardenwood Drive, Baton Rouge, LA.

Raymond Tangney
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nonresident Contractor Registration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent the new requirements of this rule are actively pursued, additional resources may have to be devoted to this program by state and local agencies. In the absence of additional funding for these efforts, resources may have to be diverted from other activities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will cause an increase in tax collections for both state and local governments through the registration and taxation of additional contractors. The amount of this increase cannot be determined. This rule will affect the nonresident contractor program already in existence in a procedural manner. The offices of state and local governments will be required to follow certain procedures in issuing any permits.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will not require the payment of any additional fees, but will require additional contractors to register for taxes. This rule will enforce the requirements which already exist in the statutes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent the enforcement of this program brings additional nonresident contractors into compliance with the requirements of this program, any competitive advantage they may have enjoyed by noncompliance will be reduced. If resident contractors are thus made relatively more competitive, employment by them may increase.

Ralph Slaughter
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Revenue and Taxation
Tax Commission**

Ad Valorem Tax (LAC 61:V.Chapters 3-31)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt and/or amend sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 1995 (1996 Orleans Parish) tax year.

The full text of these proposed rules may be viewed at the Louisiana Tax Commission, 5420 Corporate Boulevard, Suite 107, Baton Rouge, LA 70808 or at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Interested persons may submit written comments on the proposed rules until 4 p.m., December 9, 1994, to: E. W. "Ed" Leffel, Property Tax Specialist, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896.

Malcolm B. Price, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Real/Personal Property**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs to the agency are the costs of preparation, reproduction and distribution of updated regulations. These costs are estimated at \$6,450 for the 1994-95 fiscal year and are being reimbursed through an existing user service fee of \$15 per set.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These revisions will generally decrease 1995 personal property assessments for property of similar age and condition in comparison with equivalent assessments in 1994. Composite multiplier tables for assessment of most personal property decreased by an average of one percent. Specific valuation tables for assessment of oil and gas properties will generally increase by an estimated 4 percent on wells. The net effect of these revisions is estimated to reduce assessments by 0.4 percent and tax collections by \$1,100,000 on the basis of existing

statewide average millage. However, local governmental units have the authority to offset all or a portion of this reduction by millage adjustment.

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$248,000 from public service companies, and \$55,000 from financial institutions and insurance companies, all of which are assessed by the Tax Commission.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The effects of these new rules on assessments of individual items of equivalent personal property will generally be lower in 1995 than in 1994. However, oil, gas, and associated wells assessments will be generally higher. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$303,000 to be paid by public service property owners, financial institutions and insurance companies for 1994-95.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments and charges are relatively small, the impact is thought to be minimal.

Ann R. Laurence
Executive Secretary
9411#076

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Rehabilitation Services**

Appeals Rights (LAC 67:VII.101)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to amend its Applicant/Clients Appeals Rights Policy.

The rule governing Louisiana Rehabilitation Services' Applicant/Clients Appeals Rights Policy is being amended to ensure that applicant/clients are afforded the opportunity to appeal agency decisions meted in a fair and impartial manner in a timely fashion.

The LRS Policy Manual is referenced in the *Louisiana Administrative Code* as follows.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§101. Policy Manual

LRS Policy Manual, fiscal year 1994, provides opportunities for employment outcomes and independence to individuals with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:

The revision to the policy manual appears below.

* * *

IV. Applicant/Client Appeal Rights

A. Administrative Review. The administrative review is a process which may be used by applicants/clients for a timely resolution of disagreements. However, this process may not be used as a means to delay an impartial hearing officer conducted fair hearing. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issues of concern. All administrative reviews will be expedited reviews. The administrative review will be conducted and a final decision rendered within 15 calendar days of the receipt of the initial written request from the applicant/client.

All applicants/clients must be provided adequate notification of appeal rights regarding eligibility, determination of severe disability and/or the provision or denial of vocational rehabilitation services. Unless services being provided under a current individualized written rehabilitation program have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client, such services will continue during the administrative review appeal process.

In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their vocational rehabilitation case, adequate notification by the counselor must include:

1. the agency's decision;
2. the basis for, and effective date of the decision;
3. the specific means for appealing the decision;
4. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;
5. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
6. the name and address of the regional manager who should be contacted in order to schedule an administrative review or fair hearing.

Note: All administrative reviews must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

B. Fair Hearing. The fair hearing is a process which may be used by applicants/clients to appeal disputed findings of an administrative review, or as a direct avenue of appeal bypassing the administrative review option. The fair hearing will be conducted by an impartial hearing officer with a final decision rendered within 45 calendar days of receipt of the initial written request if no administrative review was conducted and within 30 calendar days if the fair hearing follows an administrative review. The entire appeal process, whether it is inclusive of the administrative review or not, will not exceed 45 calendar days unless an exception is agreed upon jointly by the participating parties; i.e.: the applicant/client and/or their representative, if applicable; the appropriate regional manager, and the impartial hearing officer. An

exception to this timeline should only be made as a result of sufficient cause as agreed upon by the participants. However, if the request for a fair hearing is directly related to an agency decision to end or alter services in progress, then a fair hearing must be conducted and a decision must be reached within 60 calendar days of the initial request. The client will not have the option of requesting delays past this time. The failure of the client who is contesting an agency decision regarding a plan of services currently in progress to participate in a fair hearing within the 60 calendar days requirement will result in a dismissal of the appeal.

Note: The maximum 60 calendar days time period for participating in a fair hearing with a resulting decision does not apply to applicants/clients requesting an appeal regarding matters other than services currently in progress. With sufficient cause and joint agreement of the participating parties, the fair hearing and decision can be delayed for a longer period of time.

The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Services Vocational Rehabilitation Advisory Council.

The impartial hearing officer shall be selected to hear a particular case on a random basis, or by agreement between the LRS director and the applicant/client (or as appropriate the client's representation).

All applicants/clients must be provided adequate notification of appeal rights regarding eligibility, determination of severe disability, the provision or denial of rehabilitation services, and/or the client's right to representation. Unless services being provided under the current individualized written rehabilitation program have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client, such services will continue during the fair hearing appeal process.

If an administrative review has been conducted, in order to insure that the applicant/client is afforded the option of availing themselves of the opportunity to pursue a fair hearing, adequate notification by the regional manager must include:

1. the agency's decision;
2. the basis for, and effective date of, that decision;
3. the specific means for appealing the decision;
4. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;
5. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
6. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

C. Director's Review of Fair Hearing. The director shall notify the individual of the intent to review a fair hearing decision in whole or in part within 20 calendar days of the mailing of the impartial hearing officer's decision to the individual.

If the director decides to review the decision, the individual shall be provided an opportunity to submit additional evidence and information relevant to a final decision.

The director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to federal or state law, including Louisiana Rehabilitation Services' policy.

A final decision shall be made in writing by the director and shall include a full report of the findings and the grounds for the decision. The director shall provide a copy of the final decision to such individual.

D. Impartial Hearing Officers. The following minimum qualifications will be required to establish a pool of qualified impartial hearing officers: a master's degree in counseling (any field), social work, education, sociology, psychology, human relations, nursing or personnel administration. Substitutions: a baccalaureate degree plus two years of experience in counseling, social services, teaching, nursing, physical therapy, occupational therapy, rehabilitation instruction, rehabilitation evaluation, worker's compensation dispute resolution or worker's compensation rehabilitation dispute resolution; or attorney-at-law licensed by the State of Louisiana; or physician licensed by the State of Louisiana (in any field).

In addition, all applicants must meet the following criteria:

1. The individual must not be an employee of a public agency (other than an administrative law judge, hearing examiner or an employee of an institution of higher education).

2. The individual must not be a member of the state Rehabilitation Advisory Council.

3. The individual must not have been involved in previous decisions regarding the vocational rehabilitation of the applicant or client.

4. The individual must have knowledge of or the ability to learn the delivery of vocational rehabilitation services, the Vocational Rehabilitation State Plan, and the federal and state rules governing the provisions of such services and training with respect to the performance of official duties.

5. The individual must have no personal or financial associations that would present a conflict of interest.

The pool of qualified impartial hearing officers shall be jointly selected by Louisiana Rehabilitation Services and the Louisiana Rehabilitation Services Vocational Rehabilitation Advisory Council.

Public hearings beginning at 10 a.m. will be conducted on December 27, 28 and 29, 1994, in Shreveport, Alexandria, and New Orleans respectively. The hearing locations are as follows: Shreveport at 1525 Fairfield; Alexandria at 900 Murray Street; New Orleans at 2026 St. Charles Avenue.

Individuals with disabilities who require special services should contact Louisiana Rehabilitation Services at least seven working days prior to the hearing they wish to attend. For assistance call 504-925-4131 or 1-800-737-2958 or for Voice and TDD, 1-800-543-2099.

Interested persons may submit written comments by January 2, 1995, to May Nelson, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding the

proposed rule. The entire policy manual may be viewed at the address above; at any of the nine regional offices of the LRS; or at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Appeals Rights**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated implementation costs or savings.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Louisiana Rehabilitation Services has sufficient funds to provide client services and administer the program as Act 15 was approved by the Louisiana Legislature.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Louisiana Rehabilitation Services has \$21 million budgeted in order to provide services to eligible individuals with severe disabilities on a first come, first serve basis.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director
9411#050

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Rehabilitation Services**

Order of Selection (LAC 67:VII.101)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to revise its Order of Selection Policy.

The rule governing Louisiana Rehabilitation Services' Order of Selection Policy is being amended to ensure that individuals with the most severe disabilities receive priority for cost rehabilitation services.

The LRS policy manual is referenced in LAC 67:VII.101 as follows.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§101. Policy Manual

LRS Policy Manual, fiscal year 1994, provides opportunities for employment outcomes and independence to individuals

with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:

The revision to the policy manual appears below.

* * *

E. Order of Selection. In accordance with the Rehabilitation Act of 1973 as amended by the Rehabilitation Act Amendments of 1986 and 1992, Louisiana Rehabilitation Services is following an order of selection for vocational rehabilitation services. The order of selection assures that individuals with the most severe disabilities receive priority for cost vocational rehabilitation services.

Louisiana Rehabilitation Services distinguishes between individuals with "the most severe disabilities," individuals with "severe disabilities," and nonseverely disabled individuals as follows:

Most Severely Disabled—an individual with a most severe disability is one who has been determined eligible for vocational rehabilitation services and:

1. who has a severe physical or mental impairment which seriously limits three or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

2. whose vocational rehabilitation can be expected to require multiple substantial vocational rehabilitation services over an extended period of time; and

3. who has one or more physical or mental impairments resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another impairment or combination of impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations.

Severely Disabled—an individual with a severe disability is one who has been determined eligible for vocational rehabilitation services and:

1. who has a severe physical or mental impairment which seriously limits one or two functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

2. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

3. who has one or more physical or mental impairments resulting from amputation, arthritis, autism, blindness, burn

injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another impairment or combination of impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations.

Nonseverely Disabled—an individual with a physical or mental disability:

1. who has been determined eligible for vocational rehabilitation services; and

2. who does not meet the criteria of an individual with either a "most severe" or a "severe" disability.

Extended Period of Time—vocational rehabilitation services that are anticipated to extend six months or longer.

The selection groups are defined as follows:

Selection Group I. Eligible individuals who are the most severely disabled:

- a. the "most severely disabled" public safety officers whose disabling conditions arose from a disability sustained in the line of duty and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition related to fire prevention, law enforcement, or other public safety activities;

- b. all other individuals with disabilities classified as the "most severe disabilities."

Selection Group II. Eligible individuals who are severely disabled:

- a. severely disabled public safety officers whose disabling conditions arose from a disability sustained in the line of duty and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition related to fire prevention, law enforcement, or other public safety activities;

- b. all other individuals with "severe disabilities."

Selection Group III. Eligible individuals with nonsevere disabilities who require only no-cost vocational rehabilitation services (counseling and guidance and job placement assistance).

- a. nonseverely disabled public safety officers who require only no-cost vocational rehabilitation services and whose disabling conditions arose from a disability sustained in the line of duty and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition related to fire prevention, law enforcement, or other public safety activities;

- b. all other individuals classified as nonseverely disabled who require only no-cost vocational rehabilitation services.

Selection Group IV. Eligible individuals with nonsevere disabilities who will require cost vocational rehabilitation services at any time during the course of their Individualized Written Rehabilitation Program Plan (RS-5).

- a. nonseverely disabled public safety officers who will require cost vocational rehabilitation services and whose

disabling conditions arose from a disability sustained in the line of duty and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition related to fire prevention, law enforcement, or other public safety activities;

b. all other individuals classified as nonseverely disabled who will require cost vocational rehabilitation services.

F. Determination of Severity of Disability. Louisiana Rehabilitation Services is committed to providing vocational rehabilitation services to individuals who are severely disabled. Individuals who have been determined eligible for vocational rehabilitation services are classified as severely disabled if the disabling condition and subsequent functional limitations fall into one of the following three categories:

1. the individual is a recipient of Social Security Disability Insurance (SSDI); or

2. the individual is a recipient of Supplemental Security Income (SSI) by reason of blindness or disability (SSI based on age alone does not automatically render an individual severely disabled); or

3. the individual is one:
a. who has a severe physical or mental impairment which seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and,

b. whose vocational rehabilitation can be expected to require multiple substantial vocational rehabilitation services over an extended period of time; and

c. who has one or more physical or mental impairments resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another impairment or combination of impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations.

Order of selection placement does not come into play until after an evaluation of rehabilitation potential and a determination of eligibility.

Special consideration will be given to the vocational rehabilitation of public safety officers whose disabling condition arose from a disability sustained in the line of duty. The disabling condition must have resulted directly from the officer's performance of duties in the enforcement execution, and administration of law or fire prevention, fire fighting or related public safety activities.

An individual's placement in the order of selection shall not be based upon residency requirements; economic status; type of disability; age, sex, race, color, creed, or national origin; source of referral; or expected employment outcome.

All individuals within a higher priority category for services shall be served before individuals in the next lowest priority

category are served. When it is impossible to serve all individuals within a priority category, individuals shall be placed on a deferred services waiting list and served in chronological order based on the date of application. In the event that an order of selection is rescinded, individuals on deferred services waiting lists and in unserved categories will be contacted and served in chronological order based on the date of application.

After determination of eligibility for vocational rehabilitation services each individual will then be classified by placement into one of the four following priority categories:

Selection Group I—most severely disabled

Selection Group II—severely disabled

Selection Group III—nonseverely disabled individual who requires only no-cost vocational rehabilitation services (guidance and counseling and job placement)

Selection Group IV—nonseverely disabled individual who will require cost vocational rehabilitation services at any time during the course of their IWRP.

Individuals shall be classified in the highest priority category for which they are determined qualified. Upon placement into a priority category, individuals shall be notified in writing of their placement.

All services, including post-employment services, shall be available to individuals receiving services under an order of selection insofar as such services are necessary and appropriate to the individual's vocational rehabilitation needs.

All agency policies and procedures governing the expenditure of funds, client financial participation and use of comparable services and benefits are applicable to individuals receiving services under an order of selection.

Louisiana Rehabilitation Services will ensure continuity of services to individuals once an individual is selected for services. Thus, an individual who is not considered either the "most severely disabled" or "severely disabled" and who was placed in Selection Group III and who, due to unanticipated events, needs purchased services, will receive the necessary vocational rehabilitation services as identified on an IWRP.

Louisiana Rehabilitation Services will therefore carefully evaluate the fiscal impact of opening vocational rehabilitation services to individuals in Selection Group IV to ensure that ongoing resources will be available to serve these individuals beyond the current fiscal year and until such individuals achieve their employment goals or the case record is closed for other appropriate and applicable reasons.

* * *

Public hearings will be conducted beginning at 10 a.m. on December 27, 28 and 29, 1994, in Shreveport, Alexandria, and New Orleans respectively. The hearing locations are as follows: Shreveport at 1525 Fairfield; Alexandria at 900 Murray Street; New Orleans at 2026 St. Charles Avenue.

Individuals with disabilities who require special services should contact Louisiana Rehabilitation Services at least seven working days prior to the hearing they wish to attend. For assistance call (504) 925-4131 or 1-800-737-2958 or for Voice and TDD, 1-800-543-2099.

Interested persons may submit written comments by January 2, 1995, to May Nelson, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806.

She is responsible for responding to inquiries regarding the proposed rule. The entire policy manual may be viewed at the address above; at any of the nine regional offices of the LRS; or at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Order of Selection**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated implementation costs or savings.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Louisiana Rehabilitation Services has sufficient funds to provide client services and administer the program as Act 15 was approved by the Louisiana Legislature.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Louisiana Rehabilitation Services has \$21 million budgeted in order to provide services to eligible individuals with severe disabilities on a first come, first serve basis.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director
9411#060

David W. Hood
Senior Fiscal Analyst

POTPOURRI

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 January 23-27, 1995 at 9:30 a.m. at the State Police Training Academy Building, Room 9, Baton Rouge, LA. The deadline for sending application and fee is December 23, at 4:30 p.m. No applications will be accepted after December 23, 1994.

Further information pertaining to the examinations may be obtained from Mr. Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify our office prior to December 23, 1994.

If you have any questions, please call our office at (504) 925-7772.

Bob Odom
Commissioner

9411#039

POTPOURRI

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

Timber Stumpage Hearing

The Louisiana Forestry Commission and the Louisiana Tax Commission will hold an adjudicatory hearing beginning at 10 a.m., December 12, 1994, in the Louisiana Department of Agriculture and Forestry Auditorium, Room 1247, located at 5825 Florida Boulevard, Baton Rouge, Louisiana, to determine the current average stumpage market value of trees, timber, and pulpwood for the purpose of predicating severance tax for the year beginning January 1, 1995 and ending December 31, 1995 pursuant to R.S. 47:633.

All interested persons are invited to attend. All interested persons will be afforded an opportunity to respond, present evidence on all issues of fact involved, argue on all issues of law and policy involved and to conduct such cross examination as may be required. Requests for subpoenas should be directed to: Paul Frey, State Forester, Office of Forestry, Box 1628, Baton Rouge, LA 70821.

Billy Weaver, Chairman
Forestry Commission

Malcolm Price, Chairman
Tax Commission

9411#071

POTPOURRI

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

**Timber Stumpage
Joint Meeting**

The Forestry Commission and the Tax Commission will hold a joint meeting beginning at 1 p.m., December 12, 1994, in the Department of Agriculture and Forestry Auditorium, Room 1247, located at 5825 Florida Boulevard, Baton Rouge, LA, to determine the current average stumpage market values for the purpose of predicating severance tax for the year beginning January 1, 1995 and ending December 31, 1995 pursuant to R.S. 47:633.

All interested persons are invited to attend.

Billy Weaver, Chairman
Forestry Commission

Malcolm Price, Chairman
Tax Commission

9411#072

POTPOURRI

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

**Limiting VOC Emissions
(LAC 33:III.Chapter 21)(AQ104)**

The Department of Environmental Quality, Office of Air Quality and Radiation Protection is announcing the withdrawal of the previously proposed changes to the Air Quality Regulations, LAC 33:III.2147, 2149, and 2151 (AQ104). This regulation was referenced in the October 20, 1994 *Louisiana Register* and published on pages 1151-1152. Consequently, the public hearing for this regulation scheduled for November 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, 7290 Bluebonnet Boulevard, Baton Rouge, LA has been canceled.

The department plans to propose this rule again at a later date.

James H. Brent, Ph.D.
Administrator

9411#075

POTPOURRI

**Department of Health and Hospitals
Office of Developmental Disabilities**

LATAN: Request for Qualifications

The Louisiana Assistive Technology Access Network (LATAN) is seeking a qualified agency that will establish and operate a consumer-driven and consumer-responsive assistive technology resource center in north Louisiana. Qualifiers must be nonprofit agencies with the capacity to provide assistive technology-related advocacy and outreach services to north Louisiana. Nonprofit entities with an interest in assistive technology for individuals of all ages with all types of disabilities and that have systems change and advocacy experience are encouraged to apply, particularly those representing underrepresented and/or rural populations.

For a copy of the RFQ or additional information, please call Clara Pourciau at (504) 342-8821 or 1-800-922-DIAL, or write LATAN, Box 3455, Bin 14, Baton Rouge, LA 70821-3455. The deadline for receipt of qualifications is 4 p.m., December 1, 1994.

Julie Nesbit
Project Administrator

9411#028

POTPOURRI

**Department of Health and Hospitals
Office of the Secretary
Planning Council on Developmental Disabilities**

State Plan

The Louisiana State Planning Council on Developmental Disabilities wishes to announce that the Developmental Disabilities Three Year State Plan will be available for public review from December 1, 1994 to December 20, 1994. The plan will be available at the following locations:

- Families Helping Families of Greater New Orleans
- Capitol Area Families Helping Families
- Bayou Land Families Helping Families
- Families Helping Families of Acadiana
- Families Helping Families of Southwest LA
- Families Helping Families at the Crossroads of LA
- Families Helping Families of Northwest LA
- Families Helping Families of Northeast LA
- Northshore Families Helping Families

The plan will also be available at all parish libraries and public health units. Written comments should be mailed at the following address: David Legendre, Louisiana State Planning Council on Developmental Disabilities, Box 3455, Baton Rouge, LA 70821-3455. FAX (504)342-1970.

Arthine Vicks
Council Chairperson

9411#068

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Claims (September, 1994)

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 51 claims in the amount of \$172,895.13 were received in the month of September 1994. One hundred sixty-three claims were paid and six claims were denied.

Loran coordinates of reported underwater obstructions are:

28008	46842	Terrebonne
29011	46944	St. Bernard
29012	46908	Jefferson
29143	46985	St. Bernard
27924	46856	Terrebonne
28639	46871	Plaquemines
28663	46869	Plaquemines
28306	46827	Lafourche
28573	46855	Jefferson
27748	46857	Terrebonne
28190	46901	Terrebonne
26699	46977	Cameron
27093	46939	Vermilion
26620	46972	Cameron
28323	46822	Lafourche
28359	46831	Lafourche
27485	46922	Iberia
27735	46884	Terrebonne
26930	46955	Cameron
26755	46979	Cameron

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

9411#069

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Claims (October, 1994)

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 65 claims in the amount of \$186,122.12 were received in the month of October 1994. Nine claims were paid and three claims were denied.

Loran coordinates of reported underwater obstructions are:

28809	42047	Orleans
27890	46858	Terrebonne
28165	46821	Terrebonne
26905	46965	Cameron
27559	46923	Iberia
28955	46889	Plaquemines
26898	46961	Cameron
27532	46935	St. Mary
29032	46948	St. Bernard
28978	46902	Plaquemines
27796	46859	Terrebonne
26895	46964	Cameron
29949	46797	Plaquemines
29005	46950	St. Bernard
27635	46887	St. Mary
27690	46898	St. Mary
29090	46831	Plaquemines
28973	46774	Plaquemines
26631	46979	Cameron
27543	46922	Iberia
27395	46945	St. Mary
27551	46921	Iberia
26665	46975	Cameron
26706	46990	Cameron
28918	46996	St. Bernard
29156	47011	St. Bernard

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

9411#070

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1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It highlights the importance of using reliable sources and ensuring the accuracy of the information gathered.

3. The third part of the document provides a detailed overview of the results of the study. It includes a comprehensive analysis of the data collected and discusses the implications of the findings for future research and practice.

4. The final part of the document concludes with a summary of the key findings and offers recommendations for further research. It also includes a list of references and a bibliography of the sources used in the study.







