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EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 93-20

WHEREAS: the people of Louisiana with disabilities have special concerns and needs relative to independent living skills and facilities; and

WHEREAS: the State of Louisiana should support the efforts of its citizens with disabilities to live independently; and

WHEREAS: the citizens of Louisiana have a need for information and education on the Federal Rehabilitation Act of 1973, as amended; and

WHEREAS: the State of Louisiana would best serve the independent living needs of its people with disabilities through a centralized and coordinated effort; and

WHEREAS: The Federal Rehabilitation Act of 1973, as amended, mandates that the state establish an Independent Living Council in order to participate in the benefits provided by the Act;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby create and establish the Governor's Statewide Independent Living Council within the Executive Department, Office of the Governor, and do hereby order and direct as follows:

SECTION 1: The duties and functions of the Governor's Statewide Independent Living Council shall be to formulate a state plan according to the mandates of Section 705 of the Federal Rehabilitation Act of 1973, as amended; and to monitor, review, and evaluate the implementation of the state plan.

SECTION 2: The Statewide Independent Living Council shall coordinate activities with the State Rehabilitation Advisory Council established under the Section 105 and councils that address the needs of specific disability populations and issues under federal law.

SECTION 3: The members of the Statewide Independent Living Council shall be appointed by and serve at the pleasure of the Governor and shall receive no compensation for their services except necessary expenses incurred to attend council meetings as outlined in State or Federal regulations.

SECTION 4: The Council shall include:

(A) One director of a center for independent living chosen by the directors of centers for independent living within the state

(B) ex officio, nonvoting members: a representative from the designated State unit and a representative from other state agencies that provide services for individuals with disabilities

(C) Additional members may include:

(1) representatives from centers for independent living
(2) parents and guardians of individuals with disabilities

(3) advocates of and for individuals with disabilities
(4) representatives from organizations that provide services for individuals with disabilities

SECTION 5: The Council shall select a chairperson from among the membership of the Council.

SECTION 6: Each member of the Council shall serve for a term of three (3) years except that initial terms shall be staggered.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state or of any political subdivision thereof are authorized and directed to cooperate with the Governor's Statewide Independent Living Council.

SECTION 8: This Executive Order shall be 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 22nd day of July, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
SECRETARY OF STATE

EXECUTIVE ORDER EWE 93-21

WHEREAS: the protection and overall well-being of the citizens of this state is of primary importance to this administration and the future of the state is dependent on the same;

WHEREAS: the Department of Public Safety and Corrections has been designated as the lead agency for the State of Louisiana in the area of Hazardous Materials/Right to Know/Motor Carrier Safety Enforcement; and

WHEREAS: the United States Congress has passed and the President of the United States has signed into law the Superfund Amendments and Reauthorization Act (Title III of which is known as the Emergency Planning and Community Right-to-Know Act of 1986) which requires the Governor of each state to appoint an Emergency Response Commission;

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

SECTION 1: The Louisiana Emergency Response Commission is created within the Department of Public Safety and Corrections, Public Safety Services.

SECTION 2: The Commission shall be composed of twelve (12) members who are designated representatives from the following organizations:

1. One member representing the Department of Public Safety and Corrections.
2. One member representing the Department of Environmental Quality.

3. One member representing the Office of Emergency Preparedness.
4. One member representing the Louisiana Emergency Preparedness Association.
5. One member representing the Louisiana State University Fireman Training Program.
6. One environmental representative.
7. One member representing the chemical industry to be nominated by the Louisiana Chemical Association.
8. One member representing the Right-to-Know Unit.
9. Four at-large members.

SECTION 3: Each member appointed by the Governor shall serve at the pleasure of the Governor. Any vacancy occurring on the Commission shall be filled in the manner of the original appointment.

SECTION 4: The duties of the Commission are to:

1. Designate local emergency planning districts;
2. Appoint members to the local emergency planning committees;
3. Supervise and coordinate the activities of the local emergency planning committees;
4. Establish procedures for receiving and processing requests from the public for information;
5. Review emergency plans;
6. And conduct all other activities required by the Emergency Planning and Community Right-to-Know Act of 1986.

SECTION 5: The Commission may receive grants, donations, or gifts of money, equipment, supplies, and services from any public or private source to carry out its duties hereunder.

SECTION 6: The Governor shall appoint the chairman of the Commission and the Commission may elect such other officers as it deems necessary.

SECTION 7: The Commission shall meet quarterly and at other times on call of the chairman. A majority of the members shall constitute a quorum for the transaction of business.

SECTION 8: Members shall serve without compensation, and no member shall receive a per diem or reimbursement of personal expenses from public funds.

SECTION 9: This executive order supersedes Executive Orders Nos. 92-17, 92-61, and 92-89.

SECTION 10: The provisions of this Executive Order are effective upon signature and shall remain in effect until amended, modified by the Governor, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 2nd day of August, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
SECRETARY OF STATE

WHEREAS: the State of Louisiana may be subjected to emergencies and disasters of all kinds and of various magnitudes; and

WHEREAS: the State of Louisiana should be prepared to respond to the effects of such emergencies and disasters; and

WHEREAS: the effects of such emergencies and disasters have a deleterious effect upon the citizens of Louisiana; and

WHEREAS: the effects of such emergencies and disasters may be mitigated by effective planning and operations; and

WHEREAS: such planning and operations should be a coordinated effort of all State Departments and Agencies; and

WHEREAS: the coordinated effort may best be obtained through the Louisiana Military Department, Office of Emergency Preparedness; and

WHEREAS: the coordinated effort may include functions which cross normal departmental or agency lines;

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

SECTION 1: that the Director of the Office of Emergency Preparedness shall be authorized to activate and deactivate the State Emergency Operations Center and to exercise overall direction and control of emergency or disaster operations.

SECTION 2: that a decision to activate the State Emergency Operating Center shall constitute implementation of the Louisiana Emergency Operations Plan.

SECTION 3: that the Louisiana Emergency Operations Plan shall prescribe the rules and regulations for operations should an emergency or disaster strike anywhere in the State.

SECTION 4: that the plan shall be binding on all local governments authorized or directed to conduct emergency management operations and on all State Departments and Agencies.

SECTION 5: that the Director of the Office of Emergency Preparedness, or his designee, shall coordinate the activities of all organizations for emergency management in the State and shall perform other duties as prescribed herein.

SECTION 6: that the primary and support responsibilities for the various emergency services are as follows:

ANNEX	ASSIGNMENT	DEPARTMENT/ AGENCY	PRIMARY SUPPORT
A	Communications and Warning	Louisiana Office of Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Culture, Recreation and Tourism	S
		Office of State Police	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana Office of Emergency Preparedness	P
B	Damage Assessment	Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Department of Health and Hospitals	S
		Department of Labor	S
		Department of Natural Resources	S

	Department of Social Services	S	K	Public Information	Louisiana Office of Emergency Preparedness	P
	Department of Transportation and Development	S			Louisiana National Guard	S
C	Emergency Direction and Control				Department of Agriculture and Forestry	S
	Department of Wildlife and Fisheries	S			Office of Corrections	S
	Louisiana Office of Emergency Preparedness	P			Department of Culture, Recreation and Tourism	S
	Louisiana National Guard	S			Department of Economic Development	S
D	Donated Goods				Department of Education	S
	Office of State Police	S			Department of Environmental Quality	S
	Louisiana Office of Emergency Preparedness	P			Department of Health and Hospitals	S
	Louisiana National Guard	S			Department of Labor	S
	Department of Agriculture and Forestry	S			Department of Natural Resources	S
	Department of Health and Hospitals	S			Office of State Police	S
	Department of Social Services	S			Department of Social Services	S
	Department of Transportation and Development	S			Department of Transportation and Development	S
E	Energy				Department of Wildlife and Fisheries	S
	Department of Natural Resources	P			Department of Transportation and Development	P
	Louisiana National Guard	S	L	Public Works and Engineering	Louisiana National Guard	S
	Department of Transportation and Development	S			Department of Health and Hospitals	S
F	Fire Fighting				Department of Wildlife and Fisheries	P
	Department of Agriculture and Forestry	P			Louisiana National Guard	S
	Louisiana National Guard	S	M	Search and Rescue	Department of Agriculture and Forestry	S
	Department of Culture, Recreation and Tourism	S			Office of Corrections	S
	Department of Wildlife and Fisheries	S			Department of Culture, Recreation and Tourism	S
G	Information Management				Office of State Police	S
	Louisiana Office of Emergency Preparedness	P			Department of Transportation and Development	S
	Louisiana National Guard	S			Department of Social Services	P
	Department of Agriculture and Forestry	S			Office of Corrections	S
	Office of Corrections	S			Department of Culture, Recreation and Tourism	S
	Department of Culture, Recreation and Tourism	S	N	Shelter Operations Control	Department of Education	S
	Department of Economic Development	S			Department of Health and Hospitals	S
	Department of Education	S			Department of Transportation and Development	P
	Department of Environmental Quality	S			Louisiana National Guard	S
	Department of Health and Hospitals	S			Department of Agriculture and Forestry	S
	Department of Labor	S			Office of Corrections	S
	Department of Natural Resources	S			Department of Culture, Recreation and Tourism	S
	Office of State Police	S			Office of State Police	S
	Department of Social Services	S			Department of Wildlife and Fisheries	S
	Department of Transportation and Development	S			Louisiana National Guard	P
	Department of Wildlife and Fisheries	S			Office of Corrections	S
H	Law Enforcement and Security				Department of Education	S
	Office of State Police	P			Department of Transportation and Development	S
	Louisiana National Guard	S			Department of Wildlife and Fisheries	S
	Department of Agriculture and Forestry	S			Department of Transportation and Development	S
	Office of Corrections	S			Department of Wildlife and Fisheries	S
	Department of Culture, Recreation and Tourism	S	P	Transportation		
	Department of Transportation and Development	S				
	Department of Wildlife and Fisheries	S				
I	Mass Feeding					
	Department of Social Services	P				
	Louisiana National Guard	S				
	Department of Agriculture and Forestry	S				
	Office of Corrections	S				
	Department of Environmental Quality	S				
	Department of Health and Hospitals	S				
	Department of Wildlife and Fisheries	S				
J	Medical and Sanitation					
	Department of Health and Hospitals	P				
	Louisiana National Guard	S				
	Department of Agriculture and Forestry	S				
	Department of Environmental Quality	S				
	Department of Transportation and Development	S				

SECTION 7: that each Department or Agency will appoint a Department or Agency Emergency Coordinator and an alternate to act on behalf of the department or agency during an emergency situation and will furnish the names and contact phone numbers to the Director of the Office of Emergency Preparedness.

SECTION 8: that each Department or Agency assigned a primary responsibility will prepare implementing procedures to the Louisiana Emergency Operations Plan which set forth provisions for carrying out the various emergency functions and will maintain the procedures on a current basis.

SECTION 9: that each Department or Agency assigned emergency support responsibilities will assist the primary

department or agency in the preparation of procedures and other necessary documents to support this plan.

SECTION 10: that each Department or Agency assigned a primary or support responsibility for an emergency service will:

(1) Staff the State Emergency Operations Center with the personnel during training exercises and emergencies as requested by the LOEP Director.

(2) Maintain and operate a 24-hour response capability in the Department or Agency headquarters when this plan is implemented.

(3) Participate in exercises of the Emergency Operations Plan when scheduled by the Director of the Office of Emergency Preparedness.

(4) Participate in and conduct training essential to implementation of the assigned emergency service.

(5) Conduct an annual review to update the detailed implementing procedures and advise the Director of the Office of Emergency Preparedness of modifications required.

(6) Maintain logs, records and reporting systems required by State and Federal laws, rules and regulations.

SECTION 11: that all other Departments or Agencies not assigned a primary or support role in emergency services will carry out whatever duties or services as may be specified or directed by the Governor.

SECTION 12: that supporting plans prepared by local governments and by heads of State Departments and Agencies will conform to the guidance issued herein.

SECTION 13: that any Executive Order in conflict with this Order is hereby rescinded.

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 the 9th day of August, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
SECRETARY OF STATE

EXECUTIVE ORDER NO. EWE 93-23

WHEREAS: Executive Order EWE 93-8 was signed on March 25, 1993, creating and establishing the Louisiana Post Secondary Review Commission; and

WHEREAS: it is necessary to expand that commission to include an additional two members;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby amend Section 7 of Executive Order EWE 93-8 by adding two at-large members, to be appointed by the Governor, to the Louisiana Post Secondary Review Commission.

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 30th day of August, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
SECRETARY OF STATE

EMERGENCY RULES

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

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

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved Revised Bulletin 1868, BESE Personnel Manual. Revisions to the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the manual. Bulletin 1868 is being re-adopted as an emergency rule, effective September 27, 1993 in order to continue the policies until finalized as a rule.

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

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

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

Bulletin 1868, BESE Personnel Manual, may be seen in its entirety in the Office of the State Register, Room 512, Capitol Annex, 1051 North Third Street, Baton Rouge, LA 70804; in the Office of the State Board of Elementary and Secondary Education, Education Building, Baton Rouge; or in the Office

of Vocational Education; or in the Office of Special School District #1, State Department of Education.

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

**Title 28
EDUCATION**

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

§922. Personnel Policies

A. Bulletin 1868

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

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

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

**Revised Composition of Parish Superintendents
Advisory Council (LAC 28:I.105)**

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and approved the composition of the Parish Superintendents Advisory Council. This revision is being re-adopted as an emergency rule in order to continue the revised composition of the council until the rule is finalized. Effective date of this emergency rule is September 27, 1993. This is also an amendment to LAC 28:I.105 as stated below:

**Title 28
EDUCATION**

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

§105. Board Advisory Councils

* * *

B. Composition

* * *

1. Parish Superintendents Advisory Council

The Parish Superintendents Advisory Council shall consist of 23 members to include 22 members appointed by the state board and one additional member who shall be the President of the Louisiana Association of School Superintendents who shall serve as chairman of the council. Each member of the state board shall appoint two

members, with at least one member, if possible, coming from a rural school system. Any appointed member, including the chairman, who cannot attend a meeting may appoint another superintendent from his district to represent him. The proxy shall have the same voting privileges as the appointed member. Members of the Parish Superintendents Advisory Council shall not receive reimbursement for travel expenses from the board.

* * *

D. Officers

Unless otherwise provided by state or federal law or board policy, each advisory council shall select from among its membership a chairperson and a vice-chairperson. Elections shall be annually at the first meeting in a calendar year, and the councils shall report election results to the board.

* * *

F. All members of the advisory councils, including salaried public employees, shall be entitled to reimbursement for actual travel expenses unless specifically prohibited by statute or board policy. Members may submit requests for reimbursements for expenses in accordance with the regulations promulgated by the state commissioner of administration. The board will abide by the rules set forth by the State Ethics Commission which allows salaried public employees to receive per diem payments as long as they are on annual leave.

* * *

H. Quorum

Unless otherwise provided, a quorum is a majority of the appointed membership. In the absence of a quorum, the advisory council may take action, but minutes submitted to the board shall indicate that the recommendations are being presented without the required quorum being present.

I. Any person serving on an advisory council who cannot attend a scheduled meeting may appoint a person to attend as his proxy. Unless otherwise provided herein, no proxy shall have voting privileges. Any council member who is absent from regular meetings for three consecutive times may not be represented by proxy. A proxy, in order to receive reimbursement for travel and other expenses, must present a letter signed by the council chairman to the board's staff director.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Teacher Tuition Exemption FY 1993-1994

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B), and adopted as an emergency rule the Revised Teacher Tuition Exemption Regulations for FY 1993-94 which are printed below. The Teacher Tuition Exemption Program is funded through the Louisiana Quality Education Support Fund (8g).

Emergency adoption of the revised regulations is necessary so that they can be utilized for fall 1993 university registration dates and the opening of public and nonpublic schools. Effective date of emergency rule is August 26, 1993, and supersedes the emergency rule which was printed in the August 1993 issue of the *Louisiana Register*.

TUITION EXEMPTION CONTINUING EDUCATION PROGRAM FOR TEACHERS

Louisiana Department of Education
Bureau of Continuing Education

I. Introduction

The Teacher Tuition Exemption Program is funded through the Louisiana Quality Education Support Fund 8(g). Regulations for the Tuition Exemption Program, adopted by the Board of Elementary and Secondary Education, are subject to administrative interpretation by the Louisiana Department of Education, Bureau of Continuing Education, Box 94064, Baton Rouge, LA 70804-9064, telephone (504) 342-3414.

II. Application Forms

A. Distribution

1. The Louisiana Department of Education prepares and distributes the forms.

2. Participating parish or city school systems receive forms from the Department of Education.

3. Participating non-public schools receive forms from the State Department of Education.

*4. Participating applicants obtain forms from either the employing school or school board office. *Regulations are attached to each application.*

B. Completion

1. Read the directions on the application.

2. Complete Section I and sign.

3. Have the employing authority complete Section II and sign.

*4. Submit application to Department of Education, Bureau of Continuing Education, for eligibility review. Applications must be postmarked for the fall semester by July 1, for the spring semester by November 15, and for the summer semester by April 15.

*5. Department of Education returns one copy of the approved application to participant and one copy to the university.

*6. The applicant will present the application to the designated university official. The university official completes Section III and signs.

*C. If the application form is incomplete, inaccurate, or submitted to the Department of Education past the deadline date, it is subject to denial.

Note: All statements preceded with an asterisk(*) indicate clarifications or additions to the current guidelines.

III. Deadlines

A. Applications and courses

*1. Regular Fall, Spring, and Summer Sessions

*a. Application forms must be postmarked and mailed to the State Department of Education, Bureau of Continuing Education, for the fall semester by July 1, for the spring semester by November 15 and for the summer semester by April 15.

b. Courses to be reimbursed shall be courses for credit that meet the time requirements established by the Board of Trustees for the State's Colleges and Universities.

*2. Quarter Sessions

*a. Application forms must be postmarked and mailed to the State Department of Education, Bureau of Continuing Education, for the fall quarter by July 20, for the winter quarter by October 15, for the spring quarter by January 25, and for the summer quarter by April 15.

b. Courses to be reimbursed shall be courses for credit that meet the time requirements established by the Board of Trustees for the State's Colleges and Universities.

B. Unsuccessfully Completed Courses

*1. Applicants who do not successfully complete an approved course(s) or who drop, withdraw or resign *must pay* the tuition as determined by the college and university in which the applicant was enrolled.

IV. Eligibility

*A. Participants. Any full-time, four-year degreed, elementary or secondary classroom teacher who is regularly employed or on approved sabbatical leave, listed on the Annual School Report as a member of the faculty of a state-approved public or non-public elementary or secondary school under the jurisdiction of the State Board of Elementary and Secondary Education, is eligible.

1. For purposes of this program only, "teacher" does not include assessment teacher; school psychologist or other ancillary personnel who do not hold Louisiana Teaching Certificates; administrator; supervisor; or non-degreed VTIE personnel.

2. Applicants receiving other financial assistance (i.e. stipends, graduate assistantships) specified for tuition/registration costs are ineligible for Teacher Tuition Exemption.

B. Colleges and Universities

*1. Colleges and universities failing to follow these guidelines could be denied participation.

2. Tuition reimbursement shall be limited to the following Louisiana colleges and universities as specified in Act 1010:

Delgado College

Northeast Louisiana Univ.
 Grambling State Univ.
 Northwestern State Univ.
 Louisiana State Univ./Alexandria
 Southeastern Louisiana Univ.
 Louisiana State Univ./Baton Rouge
 Southern Univ./Baton Rouge
 Louisiana State Univ./Eunice
 Southern Univ./New Orleans
 Louisiana State Univ./Shreveport
 Southern Univ./Shreveport
 Louisiana State Univ. Med.Center
 University of New Orleans
 Louisiana Tech University
 Univ. of Southwestern LA.
 McNeese State University
 Centenary College
 Our Lady of Holy Cross College
 Tulane University
 Nicholls State University
 Xavier University
 Louisiana College
 Loyola University

3. Application for admission to colleges and universities must be in compliance with the colleges' or universities' regulations, entrance requirements, deadlines, and any other conditions for admissions.

C. Courses

*1. Credit courses in the applicant's area of job assignment are eligible. Courses outside this area are eligible if the applicant is addressing a certification area of critical shortage that the local school system has identified and submitted to the State Department of Education. The city/parish Superintendent's signature verifying that the applicant is addressing an area of critical shortage must be present on the application at the time of submission to the Department of Education. Final review/approval of courses shall be the responsibility of the Louisiana Department of Education, Bureau of Continuing Education.

*2. Fall and Spring Semester. For tuition reimbursement, course load shall not exceed one regular semester or quarter course offering for each fall or spring session, if funds are available. An applicant should list up to three course choices for regular fall and spring semesters.

*3. Summer Semester. For tuition reimbursement, course load shall not exceed two regular semester or quarter course offerings for each summer session, if funds are available. An applicant should list up to four course choices for summer semesters.

*4. Approved Sabbatical Leave. For tuition reimbursement, course load shall not exceed three regular semester or quarter course offerings for each fall or spring session, if funds are available. An applicant should list up to five course choices for regular fall and spring semesters.

*5. Core courses for applicants are as follows (only one of each is permissible):

a. Tests and Measurements

- b. Educational Psychology
- c. Educational Research (how to do research)
- d. Philosophy of Education
- e. Statistics (educational)
- f. History of Education
- g. Introduction to Computer Literacy
- h. Introduction to the Education of Exceptional Children

- i. Reading in content areas
- j. Classroom Behavior Management

*6. Additional courses as annually approved by BESE:

- a. Louisiana Writing Project
- b. Humanities Institutes (designated by the Louisiana

Endowment for the Humanities beginning in the 1994 summer session)

- c. Taft Institute
- d. NTE Preparation Clinics

*7. Any coursework required of an applicant as a result of an unsatisfactory evaluation pursuant to direction from his employing school or school system.

8. Distance Learning courses which are live and interactive courses are eligible. The courses must be for three hours of graduate college credit approved by the university or college governing board. The Department of Education requires that a course outline be provided to the Bureau of Continuing Education prior to Department of Education Teacher Tuition Exemption approval.

D. Tuition

*1. Tuition, for the purposes of this program, is defined as the registration fee and building use fee per semester hour. Tuition exemption shall be limited to the amount of tuition assessed for on-campus courses. A portion of this amount for a course is not allowed.

*a. The state will pay only the academic registration fee and building use fee.

b. Tuition fees paid by the state as well as any other mandatory fees assessed to teachers by universities as a condition of enrollment shall be attached to the guidelines.

2. Reimbursement shall be made to the colleges and universities by the State Department of Education from state-appropriated 8(g) funds.

3. Public and non-public teachers are eligible to receive tuition waivers from public or non-public universities (registration fee and building use fee per semester hour). The amount paid by the state for any tuition imposed by or applicable to non-public college shall be equal to but not greater than the highest tuition charged by a public college or university in this state.

V. Ineligibility

Reimbursement *shall not* be paid on the following:

1. courses that are not successfully completed by the end of the semester or quarter;
2. non-credit courses or audit courses;
3. non-instructional credit courses such as examination courses;
4. courses in theology or divinity;

5. courses in administration or supervision (supervision of student teaching *only* if deemed a critical shortage area by the city/parish superintendent);

6. correspondence courses;

7. dropped, failed, or incomplete courses. *Note:* If, within 60 days after the close of the semester, the "I" is removed, no payment of tuition will be demanded. The student will be responsible for providing to the Bureau of Continuing Education written verification including the student's name, address, social security number and grade from the Office of the Registrar that the "I" has been removed within the designated time;

*8. courses for which application forms were submitted to the Department of Education past the deadline date;

9. courses for which application forms were incomplete or inaccurate;

10. courses for applicants who are declared ineligible to participate;

11. courses for which funds are not appropriated;

12. courses for applicants who are receiving retirement funds from a state retirement system.;

13. courses that do not meet the time/class meeting requirements set forth by the Board of Trustees for the State's Colleges and Universities.

*14. courses taken by independent study, directed study, student teaching, practicums, internships, observations or field experiences (The single exception is in the case of either thesis or dissertation research. Tuition reimbursement may be made for only *three hours* of research and the topic must be *directly related to the applicant's current job assignment*. Verification in writing must be made by the applicant's major professor and attached to the application prior to approval by the State Department of Education. No approval will be made for topics related to administration or supervision.);

*15. courses for which the participant is not eligible under these guidelines or Bulletin 746 requirements. Non-certified teachers may not address out-of-field critical shortage areas;

16. courses involving infractions of the tuition exemption regulations or university policy;

17. courses taken by teachers who are in default to the State of Louisiana for the Professional Improvement Program (PIP), the Tuition Exemption Program as it existed prior to July 1, 1985, or the present Tuition Exemption Program, the Post-Baccalaureate Scholarship, or the Education Majors Scholarship.

VI. Appeals

A. Any applicant who is denied tuition exemption for a college course may appeal to the Louisiana Department of Education, Bureau of Continuing Education, Box 94064, Baton Rouge, LA. 70804-9064, no later than 15 days following the date of notification of denial.

B. Any applicant who is denied tuition exemption by the Department of Education for a college course shall have a right to a due process appeal before the State Board of Elementary and Secondary Education. The applicant should contact the executive director of the State Board of Elementary

and Secondary Education, Box 94064, Baton Rouge, LA. 70804-9064, no later than 15 days following the notification of denial from the Department of Education.

VII. College and University Procedures

*A. The college and university should accept the application for tuition exemption *only* if the application has received prior approval by the Department of Education.

B. Each college and university shall submit to the Department of Education, *within 20 days after the tenth day of class* of each fall and spring session, an invoice equal to one-half of the amount of tuition assessed to that university. *Within 20 days after the close of the semester*, the college/university shall submit a final billing together with an alphabetical list of the names and addresses of applicants who received a W, F, or I grade; final payments to the university will be withheld until the reports are received. Invoicing for the summer session is covered in the following paragraph "D". The invoices submitted must reflect the actual course in which the applicant is enrolled regardless of the course listed on the Teacher Tuition Exemption Application.

*C. At the time of registration, the applicant shall be exempt from paying tuition for approved coursework for this program.

D. All 8(g) funds for the Teacher Tuition Exemption Program are strictly limited to services rendered within the fiscal year, July 1 through June 30. Summer sessions generally cover portions of June, July, and August; therefore, the tuition reimbursement of invoice issued by a university or college must be prorated. The first invoice will cover the summer session only through June 30 and will be applied against the current fiscal year budget. The remainder of the summer session tuition invoice covering the period starting July 1 to the end of the summer session will be paid from 8(g) funds in the following fiscal year.

*E. Each university receiving 8(g) funds for Teacher Tuition Exemption shall receive from the State Department of Education the necessary assurance documents to ensure that participation levels in all tuition exemption programs meet the required program guidelines. Prior to the release of funds, these assurances must be signed and returned to the State Department of Education, Bureau of Continuing Education.

*F. Any student enrolled in a course that is subsequently determined to be ineligible by the State Department of Education will be allowed to drop the course at that time regardless of the university's drop policy and not be required to pay a drop fee. If the student chooses to remain in the course, he/she will be responsible for the appropriate university fees.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Regents

Registration, Licensure and Consumer Protection (LAC 28:IX.Chapters 1, 3 and 5)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 17:1808 which delegates the authority to the board 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, the board hereby finds and accordingly adopts an emergency rule to begin licensing 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.

The effective date of this emergency rule is August 26, 1993, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

Title 28

EDUCATION

Part IX. Regents

Chapter 1. Rules for Registration and Licensure

§101. Definition of Terms

Terms used in these regulations such as *Board of Regents*, *Postsecondary*, *Academic Degree-granting Institution*, *Registration*, *Licensure*, and *Fees* shall be interpreted in accordance with R.S. 17:1808.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:

§103. Registration and License Applications

A. All public and private postsecondary, academic degree-granting institutions offering instruction in the state of Louisiana must register annually with the Board of Regents. Regular licenses are reviewed every two years. Requests for registration forms and license applications should be made in writing and addressed to:

Commissioner of Higher Education
Louisiana Board of Regents
150 Third Street, Suite 129
Baton Rouge, LA 70801-1389

B. Completed registration forms and license applications should be returned to the address shown above.

C. License applications must be accompanied by a nonrefundable license application fee of \$500. 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:

§105. License Fees

A. The license application fee shall be \$500. Those institutions granted a license to operate will be required to pay an additional \$500 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 will be subject to a delinquent fee of \$500 in addition to the renewal fee.

C. The Board of Regents may authorize assessment of special or supplemental fees to be paid by registered institutions pursuant to special actions or requests.

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 60 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:

§107. Information Requirements for Registration¹

A. All postsecondary, academic degree-granting institutions are required to provide the following information on an annual basis:

1. name and in-state address of the institution;
2. location of its main campus or office;
3. a role, scope, and mission statement;
4. degrees offered in Louisiana;
5. courses offered in Louisiana;
6. the name of the institution's chief executive officer and chief financial officer;
7. names and addresses of the institution's governing board members, if applicable;
8. description of its physical facilities in Louisiana;
9. information relative to the institution's accreditation or official candidacy status from a regional or professional accrediting agency recognized by the United States Department of Education;
10. other information as specified by the Board of Regents.

¹Registration with the Board of Regents shall in no way constitute state approval or accreditation of any institution and shall not be used in any form of advertisement by any institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:

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 should be as close as possible. Institutions with main campuses outside the state of Louisiana must submit documentation showing that they are operating legally and in accordance with rules and regulations governing

postsecondary, academic degree-granting institutions in the state in which the institution is primarily domiciled. Institutions reporting to be domiciled in Louisiana must maintain an established physical presence in the state including appropriate instructional and/or administrative facilities, faculties, staff, equipment, services, and library resources as necessary and of sufficient quality according to the type and level of degrees offered and the delivery system employed by the institution. Institutions domiciled in Louisiana, but offering educational services outside the state, must provide evidence that students have sufficient access to necessary resources and facilities appropriate to the type and level of degrees offered by the institution. The following standards shall apply to all postsecondary academic degree-granting institutions seeking licensure in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:

§303. Faculty

A. Qualifications of Faculty

1. Faculty shall be qualified by education and experience in the fields in which they teach. Faculty should meet the following minimum requirements:

a. Faculty shall possess no less than the degree awarded to a graduate of the program in which they are teaching.

b. The faculty shall be sufficient in number to establish and maintain the effectiveness of the educational program.

B. Institutions offering advanced degrees should 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 fulltime and parttime 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

¹Recognized accrediting agencies are those approved by the United States Department of Education.

²Source: 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:

§305. Academic Program Standards

A. All curricula leading to academic credits, certification, and degrees shall be formulated and evaluated by qualified faculty with appropriate education and experience acceptable to public postsecondary, academic degree-granting institutions in Louisiana and elsewhere in the nation.

B. Institutions shall provide prospective students and other interested persons with the following information:

1. admissions policies;
2. program descriptions and objectives;
3. schedule of tuition, fees, and other charges;
4. cancellation and refund policies;

5. other material information about the institution and its programs which may impact a student's enrollment decision.

C. Institutions must provide programs of sufficient quality and content to achieve stated learning objectives. Institutions are also required to establish procedures for evaluating program effectiveness.

D. Institutions must indicate the means for determining satisfactory academic progress and provide data on student retention, graduation rates, job placement, and passing rates on licensure or certification exams, where appropriate.

E. Currently licensed institutions seeking to implement new academic degree programs must first advise the Board of Regents of the proposed change. New programs will be reviewed as part of the regular license renewal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:

§307. Physical Plant Standards

A. Library

1. The institution shall maintain and/or provide student access to an appropriate library collection with adequate support staff, services, and equipment. Any contractual agreements with libraries not directly affiliated with the institution shall be available in writing to the Board of Regents.

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 at the level 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:

§309. Financial Operations

A. The business and financial management of the institution shall be directed by a qualified and bonded business officer responsible to the institution's chief executive officer.

B. Institutions are required to maintain adequate insurance to protect the operation of the institution and to guard against any personal or public liability.

C. All institutions shall provide the Board of Regents with a financial review prepared in accordance with standards established by the American Institute of Certified Public Accountants. However, any institution accredited by an agency recognized by the United States Department of Education may, at its discretion, submit financial statements prepared in accordance with rules and guidelines established by the accrediting agency.

D. Institutions shall maintain and update a long-range financial development plan for 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:

§311. Maintenance of Records

A. Institutions are required to keep records for a minimum of three years which detail:

1. the composition and background of students, faculty, and administrative staff;
2. the institution's physical plant including land, buildings, library, and research facilities;
3. copies of brochures, catalogs, and advertising which describe student admissions, programs, and scholarships.

B. A student's records should be available for review by that student at the institution's central office.

C. Individual student records should include an enrollment agreement which at a minimum contain:

1. the name and address of the student;
2. commencement date of the program;
3. titles of courses within the student's chosen curriculum;
4. total hours (quarter, trimester, semester);
5. a payment schedule which includes the total cost to the student;
6. the refund policy of the institution;
7. a statement indicating that the individual signing the agreement has read and understands all aspects of the agreement;

8. student grievance procedures.

D. Student records should also include:

1. grades received;
2. all obligations incurred and all funds paid by the student to the institution;
3. student attendance information;
4. counseling records;
5. a transcript;
6. financial aid records.

E. Student records shall be available and readily accessible for use and review by authorized officials of the institution and authorized representatives of the 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:

§313. Student Services¹

A. Institutions shall provide orientation and counseling services throughout enrollment. Special services including financial aid, employment placement for graduates, and student housing, if appropriate, must be evaluated periodically by the institution to determine effectiveness in meeting student needs and contribution to the educational purpose of the institution.

¹The Board of Regents recommends that prospective students seek independent job/career counseling prior to enrollment in an academic degree-granting postsecondary institution and encourages such institutions to promote this recommendation.

AUTHORITY NOTE: Promulgated in accordance with 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:

§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 should be clearly defined.

B. Administrative personnel should 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:

§317. Procedures for Tuition and Fee Refunds

A. Pricing and Refund Policy

1. The institution must fully disclose all charges and fees in writing to prospective students. The parent or guardian of prospective students under legal adult age must be notified in writing of all charges and fees prior to enrollment.

2. Prospective students shall not be required to make a nonrefundable tuition payment until it has been determined that the prospective student has been accepted for enrollment.

3. The institution's refund policy must be disclosed in any contract to be signed by the prospective student or the student's legal adult guardian.

4. Institutions are required to follow the minimum standards for tuition refunds as set forth herein. These guidelines are:

a. students who withdraw prior to the first day of classes are entitled to a full refund of tuition and fees. Institutions may, however, require a nonrefundable application fee;

b. any administrative fees retained by the institution upon the early withdrawal of a student shall not exceed 15 percent of the total cost of tuition and fees paid by the student;

c. institutions which financially obligate students on a quarter, semester, or similar basis will be subject to the following tuition and fee refund policy:

i. students withdrawing during the first 10 days of classes shall receive a minimum refund of 75 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

ii. students withdrawing from day 11 through day 24 of classes shall receive a minimum refund of 50 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

iii. students withdrawing from day 25 through the end of the quarter, semester, or similar time period are ineligible to receive a refund;

d. institutions which financially obligate students for longer periods of time, i.e., periods exceeding six months, shall be subject to the following tuition and fee refund policy:

i. students completing up to 25 percent of the course of study shall receive a minimum refund of 50 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

ii. students completing more than 25 percent but less than 50 percent of the course of study shall receive a minimum refund of 25 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

iii. institutions are not allowed to keep the full amount of tuition and fee charges until at least half the program of study has been completed;

iv. refund policies for programs offering tuition/fee payments on an installment plan will be examined by the Board of Regents on an individual basis. Refund policies for installment programs are expected to conform generally to refund policies which appear in Subsection A.4.c.i. through iii. and d.i. through iv. of this Section.

e. Refunds should 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:

§319. Surety Bonding

A. Institutions are required to post a surety bond issued by a surety authorized to do business in the state of Louisiana in the amount of \$10,000 to cover the period of the license. These bonds are intended to protect students in the event of a sudden closure of the institution. Institutions that are also licensed and bonded under provisions set forth by the Louisiana Board of Elementary and Secondary Education (BESE) need not seek additional bonding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:

§321. Rules and Guidelines on Advertising¹

A. Registration with the Board of Regents shall in no way constitute state approval or accreditation of any institution and shall not be used in any form of advertising by any institution.

B. Licensed institutions may use the state name and licensing agency as follows:

1. (*Name of Institution*) is currently licensed by the Board of Regents of the State of Louisiana. Licenses are renewed by the State Board of Regents every two years. Licensed institutions have met minimal operational standards set forth by the state, but licensure does not constitute accreditation, guarantee the transferability of credit, nor signify that programs are certifiable by any professional agency or organization.

2. Any licensed institution wishing to use the state name and licensing agency in any promotion or advertising is restricted to the language which appears above. The statement must appear in its entirety and any modifications are not permissible under these rules or the law.

3. Advertising shall not include false or misleading statements with respect to the institution, its personnel, courses, or services, or the occupational opportunities of its graduates.

4. Institutions claiming accreditation by agencies not recognized by the United States Department of Education must

clearly state in all advertising and promotional literature that the institutions' accreditation is not recognized by either the United States Department of Education or the State of Louisiana.

¹Neither the institution nor its agents shall engage in false advertising or other misleading practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:

§323. Hearings and Appeals

A. Institutional hearings and appeals are handled in accordance with guidelines set forth in R.S. 17:1808, §1(E)(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:

Chapter 5. Consumer Protection

§501. General Provisions

A. Individuals must make reasonable effort to solve disputes directly with the institution. If a solution cannot be reached, an individual may file a written complaint with the Board of Regents. Board of Regents' staff will review the facts and intervene where appropriate. Such intervention shall not include legal action on behalf of the party, but may include additional investigation of the institution including a site visit to determine if the institution's license should be revoked.

B. Disciplinary Provisions and Administrative Penalties

1. The Board of Regents may institute disciplinary proceedings against a licensed agent who engages in false or misleading advertising. The Board of Regents may also require an institution to submit all advertising for approval prior to use.

2. It is illegal for institutions which come under the jurisdiction of the Board of Regents to advertise, recruit students for, and/or operate educational programs in the state of Louisiana unless properly registered and licensed.

3. Penalties may be assessed for the following violations:

- operating an institution without a license;
- deceptive or fraudulent advertising;
- offering an unapproved program;
- other violations as determined by the Board of Regents.

4. Violations may result in suspension of student enrollments where patterns of abuse and willful misconduct have been established.

C. Meetings, Site Visits, and Reports

1. The Board of Regents, at its discretion, may conduct preliminary conferences with institutional officers and board members to discuss standards and procedures for implementing licensure.

2. The Board of Regents may require a site visit and examiner's report at the cost of the institution. The cost shall not exceed the actual dollar amount incurred by the Board of Regents.

3. Site visits could include an inspection of facilities, books, school files and records, as well as interviews with administrators, faculty, and students.

4. Examiners would submit a report following the site visit with recommendations pertaining to the licensure of the institution.

D. Enforcement

1. The attorney general is authorized to seek injunctive relief against an institution operating in noncompliance with the law. All costs incurred by the state of Louisiana in connection with such action shall be borne by the institution if it is found to be operating illegally.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:

Sammie W. Cospers
Commissioner of Higher Education

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Award Funding Procedure

In accordance with emergency provision of R.S. 49:953(B), the Administrative Procedure Act, the Student Financial Assistance Commission, Office of Student Financial Assistance, has amended the Scholarship/Grant Policy and Procedure Manual by adding subparagraph B.3 to Chapter IX (Funding and Charges), effective August 10, 1993, to read as follows:

B. ...

3. In the event insufficient funds are appropriated to fully reimburse institutions for tuition awards for all students determined eligible to participate in the Louisiana Honors Scholarship program for a given academic year, funding shall be allocated in the following priority:

a. Should the amount appropriated be insufficient to fully fund continuing awards, the total amount available shall be distributed to institutions for continuing students based on the same percentage of tuition for each student. No reimbursement will be made for tuition awards for newly eligible students.

b. Should the amount appropriated exceed the amount needed to fully fund continuing awards, institutions shall be reimbursed for 100 percent of student tuition for continuing students. After funding continuing students, remaining funds shall be prorated to institutions for new awardees based on the same percentage of tuition for each awardee.

c. Individual awards to first-time eligible students will not be made if the amount prorated is insufficient to award at least 10 percent of the students' tuition.

d. The percentage of tuition to be reimbursed will be calculated based on:

- i. each school's reported annual average tuition;
- ii. the actual number of students (continuing or new,

whichever is applicable) who are determined eligible for the current academic year at each school.

Jack L. Guinn
Executive Director

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Illegal Weapons and Firearms (LAC 35:I.1709)

The Department of Economic Development, Racing Commission, is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective Thursday, August 26, 1993, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

This emergency rule takes precedence over the prior emergency rule under the same chapter and section.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1709. Illegal Weapons and Firearms

A. Except as otherwise provided for by this Section, the possession, carrying or use of a weapon, firearm, and/or explosive device within any restricted area, accessible only to permittees, is prohibited. Anyone found in violation of this Section shall be fined or suspended or both and may have his or her license revoked.

B. This Section does not apply to any person of the following categories:

1. any local, state or federal law enforcement officer;
2. any member of track security who is properly certified to carry a firearm and whose employment with an association is reported in writing to the commission.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 19:

Paul D. Burgess
Executive Director

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Office of Facility Planning and Control

Instructions for Preparation of Capital Outlay Budget
Request Forms (LAC 34:III.201)

The Division of Administration, Facility Planning and Control Section has revised the Capital Outlay Request Forms and Instructions, and does hereby publish them, in accordance with the provisions of R.S. 39:102.C.

This declaration of emergency is effective upon publication and will remain in effect for the maximum of 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

Title 34

GOVERNMENT CONTRACTS

PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 2. Capital Outlay Budget Request Forms

§201. Instructions for Preparation of Capital Outlay Budget Request Forms

A. When preparing a five-year capital outlay plan, a first year request should reflect only those projects which must be funded next year. If a project can wait, it should be shown in years 2-5 of the request.

B. For projects other than those funded from self-generated cash, federal funds or dedicated revenues, the only anticipated source of funding available is the sale of general obligation bonds. It is, therefore, necessary to limit capital outlay projects which do not have a cash source of funding to those which have an anticipated useful life of 20 years or more and a value or cost of at least \$50,000. Examples of projects that qualify for inclusion in the capital outlay bill are:

1. land acquisition;
2. site development and improvement;
3. acquisition or construction of buildings or other structures;
4. additions of expansions to existing facilities;
5. major repair or renovation of existing facilities;
6. installation, extension or replacement of utility systems or major building system components;
7. roof replacement;
8. asbestos abatement;
9. fixed equipment which is connected to building utility systems;
10. initial equipment and furnishings for new buildings. However, depending on the useful life of equipment and furnishings, a decision may be made to fund these items through alternate sources.

C. Capital outlay requests should not include any of the following:

1. minor repair or renovation projects, such as painting, flooring, etc.;
2. minor roof repairs which do not extend the useful life of the roof;

3. movable equipment and furnishings, except that associated with new buildings;
4. vehicles of any type;
5. materials and supplies;
6. repair or renovation of minor building components, such as plumbing fixtures, locks, etc.;
7. routine maintenance of existing equipment.

D. All requests are due to Facility Planning and Control by November 1, and must be submitted through and prioritized by the appropriate governing authority. Each department should attach a summary sheet listing all requested projects in priority order by department. Project funding previously requested and appropriated in a prior year capital outlay act, but for which bonds were not sold in that prior year, must be requested again if the project funding is not reauthorized in the current outlay act.

E. Submit six hard copies of the budget request document and the completed diskette(s) (soft copy) along with a transmittal to: Division of Administration, Facility Planning and Control, State Capitol Annex, Room B-31, Post Office Box 94095, Baton Rouge, Louisiana 70804-9095. In addition, one duplicate hard copy set must be submitted at the same time to both the: Joint Legislative Capital Outlay Committee, 21st Floor, State Capitol, Post Office Box 94062, Baton Rouge, Louisiana 70804-9062; AND Legislative Fiscal Office, 18th Floor, State Capitol, Post Office Box 94097, Baton Rouge, Louisiana 70804-9097.

1. For Years 2-5 Requests, the agency will need to complete only the "Recap Sheet" and the Section entitled "Demonstration of Need" (Screens 1-8 in the CORTS program).

2. If assistance is needed in completing the forms or using the CORTS software, contact Facility Planning and Control at (504) 342-0820 or LINC 421-0820.

F. Terms Used in Capital Outlay Requests

1. Schedule Number Department plus FACS agency number. For non-state entities, search for a schedule number that applies. If one cannot be found, use schedule number 00-0000.

2. Class A Project Emergency. A capitol project can be classified as emergency if it is essential to alleviate conditions hazardous to life or property. Examples include extensive roof leaks, structural defects, accreditation or code violations, asbestos/hazardous material abatement, and extensive breakdown of HVAC systems.

3. Class B Project. Current Program Requirements—needs that would allow an agency to bring its facilities up to program standards set by national or regional accrediting associations. Also, changes necessary to improve the functioning of a program belong in this classification. This would include measures to rectify inadequacies or the non-existence of facilities stipulated by accrediting associations required for program achievement. It would also include provisions for major alterations to meet or maintain current program requirements. Examples include addition of a new program, changes or relocation of an existing program.

4. Class C Project. Anticipated Program Needs—projects anticipated on the basis of increased enrollments, additional service, obsolescence of existing facilities, and

changing an agency's role, scope or mission. Examples include addition of a new program, changes or relocation of an existing program.

5. **Project Title.** Give the project a concise, descriptive title. This title should be used on all correspondence, etc.

6. **Project Priority Number.** Assign a priority number to each new project request in keeping with the relative importance to the achievement of overall department goals. The priority number given a project must reflect the overall department priorities, not the priorities of a single institution.

7. **State Funds.** Include cash from the State General Fund.

8. **General Obligation Bonds**—bonds or other evidences of indebtedness whose debt service is payable from the Bond Security and Redemption Fund.

9. **Reimbursement Bonds**—special bonds whose debt service is payable by revenues derived from operation of the bond funded facility, e.g., a parking facility, toll bridge, laundry, etc.

10. **Self-Generated Funds**—represents self-generated revenue from agency operations, e.g., license fees, admission fees, etc. or from statutory dedications.

11. **Federal Funds**—any federal grant, loan, etc. that has been applied for, awarded, or received for the project.

12. **Local and Other Funds**—any other type of financing not covered above, including interagency transfers, donations, etc. For non-state entities, indicate any local matching of funds here; this should include any local bond issue proceeds, millages, or other forms of local participation.

13. **Land Acquisition**—cost of purchasing real property, including closing costs.

14. **Planning Cost**—fee for professional services for planning. This figure should be 10 percent of construction cost.

15. **Construction Cost**—cost of construction, renovation, repair, demolition or other work, excluding land acquisition, professional fees, and other costs. This should include the cost of all fixed equipment, such as bathroom fixtures, laboratory and kitchen equipment, etc.

16. **Miscellaneous**—incidental expenses not listed above, including insurance, legal and testing. This figure should be 10 percent of the construction cost.

17. **Movable Equipment**—furnishings and equipment which are not fixed to the building or facility. If funds for movable equipment are being requested for the current year, a detailed, itemized listing must be provided. It should include a brief description of the equipment, the quantity of identical pieces, the estimated unit cost of each item, the estimated cost (sum of quantity times estimated unit cost), and the source from which the estimate was obtained.

18. **Net Area/Person**—net area per person required to satisfy the function of the space type.

19. **Net Area Required**—net area required for each functional space type (number of people times the net area per person required).

20. **Burden Factor.** Apply a percentage to the net area which reflects architectural burden for the facility; namely, circulation areas (corridors, elevators, stairs), janitorial and equipment rooms, public restrooms, interior and exterior walls and partitions, etc.

21. **Total Gross Area.** This is the product of the total net area times the burden factor percentage.

**PROJECT RECAP SHEET
CAPITAL OUTLAY REQUEST FOR FY 1994-95
PAGE - 1**

PROJECT

REQUEST NUMBER _____

Title _____ Department Priority Number ___ of _____ A. Emergency Project [] B. Current Project Requirements [] C. Anticipated Program Needs []	Location _____ Parish _____ Senate District _____ House District _____
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APPLICANT

Schedule No. _____ Department / Umbrella User _____ Agency / Management Board _____ Local User Facility _____	Site Code _____ State ID _____ Representative _____ Phone _____ Head of Agency _____ Phone _____ Contact Person _____ Phone _____
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FINANCIAL

TOTAL PROJECT COST ESTIMATE:	Local User Request	Agency Request	Department Request	F.P. & C Revision
Land / Building Acquisition	_____	_____	_____	_____
Planning Costs (10%)	_____	_____	_____	_____
Construction Costs	_____	_____	_____	_____
Hazardous Materials Abatement	_____	_____	_____	_____
Subtotal	_____	_____	_____	_____
Misc./Contingency Costs (10%)	_____	_____	_____	_____
Equipment Costs	_____	_____	_____	_____
Total	0	0	0	0

SOURCE OF FUNDING:

Previous Auth. Source	Amount	Year	Act Number	Priority Level	Were Bonds Sold or Lines of Credit Granted ?
_____	_____	_____	_____	_____	Bonds [] Credit []
_____	_____	_____	_____	_____	Bonds [] Credit []
_____	_____	_____	_____	_____	Bonds [] Credit []
_____	_____	_____	_____	_____	Bonds [] Credit []
TOTAL (A)	0				

PROPOSED FUNDING:

	First Year	Years 2-5	Source of Funding
State Funds	_____	_____	_____
Gen. Obl. Bonds	_____	_____	_____
Reimb. Bonds	_____	_____	_____
Self-Gen. Funds	_____	_____	Cash [] Rev. Bonds []
Federal Funds	_____	_____	_____
Other _____	_____	_____	_____
Total	(B) 0	(C) 0	

Total Project Funding (A+B+C) _____ (Should Equal Total Project Estimated Cost)
 Annual Operation & Maintenance Cost Increase (Decrease) _____ 0

AGENCY IMPACT STATEMENT

I hereby certify that this project/program has been reviewed, approved and integrated into our departments' long range strategic plan and five year budget. The impact of this project/program's operating budget on our budget has been approved by _____.

Head of Department Signature: _____ Date: ___/___/___
 Title: _____

COMMENTS

**NEW PROJECT REQUEST
CAPITAL OUTLAY REQUEST FOR FY 1994-95
PAGE - 1**

PROJECT:

Title _____
Description _____ _____ _____
Programs Served _____
Site Location _____

DEMONSTRATION OF NEED

Purpose or Objectives of Proposed Project (check as many as apply)

<input type="checkbox"/> Expand Existing Program	<input type="checkbox"/> Changes in Population Served
<input type="checkbox"/> Relocate Existing Program	<input type="checkbox"/> To Address Code Violations, Court Orders, Accreditation
<input type="checkbox"/> Add New Program	<input type="checkbox"/> To Address Actual or Threatened Prop. Damage
<input type="checkbox"/> Changes in Existing Program	<input type="checkbox"/> Changes in Accepted Standards / Guidelines
<input type="checkbox"/> Changes in Mission, Goals, Objectives	<input type="checkbox"/> Other _____

Describe _____

Program Service Description _____

Number of Employees Present _____ Citizens Served _____
Future _____ Daily Users _____

Describe strategic long range plan for program (5 Yr?).

APPLICABLE GUIDELINES / STANDARDS
List publications, regulatory agencies guidelines for the program.

Minimum or mandatory requirements of above listed for program.

What alternatives were considered?

<input type="checkbox"/> Maintaining Status Quo	<input type="checkbox"/> Lease Space
<input type="checkbox"/> Use Existing Space	<input type="checkbox"/> Renovation of Existing Space
<input type="checkbox"/> New Space	<input type="checkbox"/> Expansions of Similar Program Elsewhere

How was best option determined (Studies, Etc.) ?

Were any feasibility studies or needs assesment reports prepared ?
If so, please name contact person _____ Phone _____

List socioeconomic and environmental affects of project.

Identify and describe other similar facilities in your area and evaluate their capabilities to meet needs.

ARCHITECTURAL PROGRAM

Preparer _____ Date Prepared ___/___/___

Type of Space	#	Occupants	Net Area / Person	Net Area Required
Net Area Req'd				0

Net Area _____ X Burden Factor _____ = Total Gross Area Required _____

TOTALS

_____ Employees	_____ Temporary Employees
_____ Visitors / Clients	_____ Student / Assistant
_____ Contract Employees	_____ Other

NEW PROJECT REQUEST
 CAPITAL OUTLAY REQUEST FOR FY 1994-95
 PAGE - 2

ARCHITECTURAL PROGRAM (Continued)

Additional program requirements (Parking, Utilities Tie-In, Location, Shipping & Receiving, Public Access, Site Amenities, Etc.) Describe below.

What is the length of time needed for planning ? _____
 Construction ? _____

NEW CONSTRUCTION

What will happen to existing facility? (Demolition, Renovation, Expansion of other programs)

 How funded? _____

Has site been surveyed for underground storage tanks ? []
 When ? _____

RENOVATION / ADDITION

Describe history and condition of building, extent and date of previous major renovations.

Describe the extent of the proposed renovation / addition.

Where will the occupants be housed during construction ?

 How funded? _____

What portion of the const. budget addresses modifications required to meet The Americans with Disabilities Act Guidelines (ADAG)? _____

What hazardous materials are addressed in the construction budget?
 [] Underground Storage Tanks [] PCB's [] Asbestos
 [] Lead Paint [] Other _____

Has the facility's asbestos management plan been consulted for abatement requirements? []
 Contact person _____

What is the current age and condition of the existing roof and estimated date of replacement? _____

For roofing projects, what is current condition of rooftop equipment & estimated date of replacement? _____

CONSTRUCTION COSTS

Source of Data _____ Date Prepared ___/___/___

List special cost affecting factors considered (Unfinished Warehouse Space, Extraordinary HVAC, Etc.)

COST OF CONSTRUCTION CALCULATION:

Type of Space	Total Gross Area	Cost / S.F.	Total Cost
SubTotal / Average	0	0.00	0

NEW PROJECT REQUEST
CAPITAL OUTLAY REQUEST FOR FY 1994-95
PAGE - 3

COST OF CONSTRUCTION (Continued)

ADDITIONAL LINE ITEM EXPENSES (Parking, Utility Tie-In, Security System, Etc.)		
Item	Unit Cost	Total Cost
SubTotal		0
Total Construction Cost		0

EQUIPMENT COSTS

Source of Data _____ Date Prepared ___/___/___

SUMMARY OF EQUIPMENT AND ESTIMATED COSTS:

	0
	0
	0
	0
	0
Total	0

If this project is a current year request, attach an itemized breakdown with unit costs, estimated useful life of the equipment.

If this project is for renovation or relocation for an existing program, will existing equipment continue to be used ? []
If not, why? _____

PROPOSED PROJECT FUNDING

	94-95	95-96	96-97	97-98	98-99	Total
G.O. Bonds						
State Funds						
Reimb. Bonds						
Self-Gen Revenue						
Federal Funds						
Local&Other Funds						
Total	0	0	0	0	0	0

PROGRAM OPERATING & MAINTENANCE COSTS

BUDGET REQUEST SUMMARY (Should match submittal to Office of Planning & Budget)	Current Year Actual	Annual Projected Increase (Decrease) After Project Completion
Expenditures: Salaries Other Compensation Related Benefits Travel Operating Services Supplies Professional Services Other Charges Debt Services Interagency Funds Acquisitions Major Repairs Unallotted	_____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____	_____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____
Total Expenditures	0	0
Means of Financing: State General Fund (Direct) State General Fund by: Interagency Transfers Fees & Self-Gen. Revenues Statutory Dedications Interim Emergency Board Federal Funds	_____ _____ _____ _____ _____ _____	_____ _____ _____ _____ _____ _____
Total Means of Financing	0	0
Excess or (Deficiency) of Financing Over Expenditures	0 (Should Equal 0)	0 (Should Equal 0)

PROGRAM OPERATING & MAINTENANCE COSTS (Continued)

	94-95	95-96	96-97	97-98	98-99
Total Expenditures	0	0	0	0	0
Means of Financing:					
State Gen. Fund (Direct)					
State Gen. Fund By:					
Interagency Transfers					
Fees & Self-Gen. Revenues					
Statutory Dedications					
Interim Emergency Board					
Federal Funds					
Total Means of Financing	0	0	0	0	0

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:102.C.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Section, LR 7:6 (January 1981), amended LR 19:

Roger Magendie
 Director

DECLARATION OF EMERGENCY

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

Disproportionate Share Adjustment Payment Methodologies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medicaid Program.

Medicaid currently reimburses for inpatient care in either a free-standing psychiatric hospital or an acute care general hospital with a methodology which includes an adjustment for hospitals serving a disproportionate share (DSH) of low-income patients. Previously there has been no limit on the amounts of disproportionate share adjustment payments, but as a result of Public Law 102-234, a statewide cap has been placed on disproportionate share adjustment payments beginning October 1, 1992. Louisiana is already over the base state allotment for disproportionate share payments of 12 percent of its total Medicaid expenditures projected for federal fiscal year (FFY) 1993, and is therefore capped at the amount of disproportionate share expenditures in FFY 1992. In federal regulations promulgated November 24, 1992 (FR Vol. 57, No. 227, pages 55118-55265) and later modified in the final rule in the August 13, 1993 *Federal Register* (Vol. 58, No. 155, pages 43156-43187), disproportionate share payments are limited to an allotment for each state. As Louisiana is a high DSH state and already projects

disproportionate share payments in FFY 93 in excess of its allotment, a change in the methodology for determining disproportionate share adjustment payments is being implemented to ensure that DSH expenditures remain within the cap imposed by P.L. 102-234 and the HCFA regulations promulgated to implement this law.

Based on current projections for DSH payments, it is projected that the DSH payments shall be reduced by \$250,000,000 as a result of the implementation of this rule change regarding the methodology for determining disproportionate share adjustment payments for inpatient hospital services (acute and psychiatric). This action is necessary to reduce the projected DSH payments to a level that will remain under the cap. This emergency rule will ensure that other health care to the needy of the state would remain available as otherwise reductions in these services may result if the cap is exceeded and the state must bear the full burden of the DSH payments in excess of the cap. An emergency rule was adopted on this matter on January 1, 1993 and was published in the January 20, 1993 issue of the *Louisiana Register*. This emergency rule was adopted again effective May 1, 1993 to insure the continuation of the following provisions for disproportionate share payments and published in the April 20, 1993 issue of the *Louisiana Register*, April 20, 1993, Volume 19, Number 4.

EMERGENCY RULE

Effective for dates of service August 29, 1993, the Department of Health and Hospitals, Bureau of Health Services Financing shall amend the methodology for calculating the amount of disproportionate share payments for inpatient hospital services to differentiate by type of hospital (teaching and non-teaching) for hospitals employing the low-income utilization methodology and to separately calculate the disproportionate share adjustment for distinct part psychiatric units. Below are the revised methodologies as modified in the state plan: Attachment 4.19A, Item 1, D. 2., Payment Adjustments for Disproportionate Share Hospitals.

Disproportionate Share Teaching Hospitals

The higher of the below-specified payment adjustment factors shall be applied to the cost limits (per discharge and carve-out per diem) to determine allowable inpatient costs for purpose of payment calculation; and then to the total allowable Medicaid inpatient costs for teaching hospitals qualifying as disproportionate share providers (DSH) as specified above in d.1. (a-d) for services provided on or after January 1, 1993 and in accordance with Section 1923 (c)(1-2) of the Act:

a. *Medicaid Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, in excess of the mean plus one standard deviation; or

b. *Low-Income Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, of the low income utilization rate defined above in D.1.d., in excess of 25 percent times a multiplier up to three, as determined by the director of the Bureau of Health Services Financing; or

c. *Medicare DSH rate*—that percentage determined by the Medicare fiscal intermediary as a qualifying provider's disproportionate share adjustment factor for the purposes of

Medicare reimbursement in accordance with rules established under Section 1886(d)(5)(F)(iv) and Section 1923(c)(1) of the Social Security Act.

Disproportionate Share Non-Teaching Hospitals

The higher of the below-specified payment adjustment factors shall be applied to the cost limits (per discharge and carve-out per diem) to determine allowable inpatient costs for purpose of payment calculation; and then to the total allowable Medicaid inpatient costs for non-teaching hospitals qualifying as disproportionate share providers (DSH) as specified above in d.1. (a-d) for services provided on or after January 1, 1993 and in accordance with Section 1923 (c)(1-2) of the Act:

a. *Medicaid Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, in excess of the mean plus one standard deviation; or

b. *Low-Income Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, of the low income utilization rate defined above in D.1.d., in excess of 25 percent times a multiplier up to three, as determined by the director of the Bureau of Health Services Financing; or

c. *Medicare DSH rate*—that percentage determined by the Medicare fiscal intermediary as a qualifying provider's disproportionate share adjustment factor for the purposes of Medicare reimbursement in accordance with rules established under Section 1886(d)(5)(F)(iv) and Section 1923(c)(1) of the Social Security Act.

Distinct Part Psychiatric Units

Payment adjustment for distinct part psychiatric units shall be calculated using the unit's data only; however, qualification for disproportionate share adjustment remains calculated based on the entire hospital's utilization and revenue data (acute units and distinct part psychiatric units). The higher of the below-specified payment adjustment factors shall be applied to the prospective rate to determine the total disproportionate share payment which shall be reflected in the adjusted per diem rate which is not to exceed \$750 per day for those distinct part psychiatric units in hospitals qualifying as disproportionate share providers (DSH) as specified above in d.1. (a-d) for services provided on or after January 1, 1993 and in accordance with Section 1923 (c)(1-2) of the Act:

a. *Medicaid Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, in excess of the mean plus one standard deviation; or

b. *Low-Income Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, of the low income utilization rate defined above in D.1.d., in excess of 25 percent times a multiplier up to three, as determined by the director of the Bureau of Health Services Financing; or

c. *Medicare DSH Rate*—that percentage determined by the Medicare fiscal intermediary as a qualifying provider's disproportionate share adjustment factor for the purposes of Medicare reimbursement in accordance with rules established under Section 1886(d)(5)(F)(iv) and Section 1923(c)(1) of the Social Security Act.

Disapproval of this change by HCFA will automatically

cancel the provisions of this rule and the former policy will remain in effect.

Copies of this emergency rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

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

Disproportionate Share Payment-Indigent Pool

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program.

Medicaid currently reimburses for inpatient care in either a free-standing psychiatric hospital or an acute care general hospital with a methodology which includes an adjustment for hospitals serving a disproportionate share (DSH) of low-income patients as well as an additional disproportionate share adjustment which utilizes different qualifying criteria and payment adjustment methodology. Previously there has been no limit on the amounts of disproportionate share adjustment payments, but as a result of Public Law 102-234, a statewide cap has been placed on disproportionate share adjustment payments beginning October 1, 1992. Louisiana is already over the base state allotment for disproportionate share payments of 12 percent of its total Medicaid expenditures projected for federal fiscal year (FFY) 1993, and is therefore capped at the amount of disproportionate share expenditures in FFY 1992. In federal regulations promulgated November 24, 1992 (FR Vol. 57, No. 227, pages 55118-55265) and later modified in the final rule in the August 13, 1993 *Federal Register* (Vol. 58, No. 155, pages 43156-43187), disproportionate share payments are limited to an allotment for each state. As Louisiana is a high DSH state and already projects disproportionate share payments in FFY 93 in excess of its allotment, a change in the methodology for determining disproportionate share adjustment payments is being implemented to ensure that DSH expenditures remain within the cap imposed by P.L. 102-234 and the HCFA regulations promulgated to implement this law.

This action is necessary to reduce the projected DSH payments to a level that will remain under the cap. This emergency rule will ensure that other services for health care to the needy of the state would remain available as otherwise reductions in these services may result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap. An emergency rule was adopted on

January 1, 1993 and published in the January 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 1 on disproportionate share payments based on a pool of indigent days. This emergency rule to insure the continuation of the above provision for disproportionate share payments based on a pool of indigent days was adopted again effective May 1, 1993 and published in the April 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 4. A notice of intent was published on these provisions in the April 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 4.

EMERGENCY RULE

Effective for dates of service August 29, 1993, the Department of Health and Hospitals, Bureau of Health Services Financing shall amend the methodology for calculating the amount of disproportionate share payments for inpatient hospital services to provide for an additional disproportionate share payment for hospitals which utilize payment based on the number of indigent care inpatient days (exclusive of Medicaid inpatient days) in a pool of all such days for all qualifying disproportionate share hospitals. Qualifying hospitals whose free care data does not reflect a full year shall have days annualized for purposes of the pool. A lump sum payment will be made annually to each disproportionate share hospital equal to the product of the ratio of each hospital's total indigent care days in the prior state fiscal year, divided by the total indigent inpatient days in the same period by all disproportionate share hospitals, multiplied by an amount of funds to be determined by the director of the Bureau of Health Services Financing, but not to exceed in the aggregate the total cap on disproportionate share expenditures established under P.L. 102-234.

All hospital indigent care (free care) plans must be submitted to and approved by the Bureau of Health Services Financing and may not exceed the income eligibility criteria established under Hill-Burton criteria of 200 percent of the federal poverty level. This additional disproportionate share payment may be payable to all qualifying disproportionate share hospitals (acute care general, free-standing psychiatric hospitals, and distinct part psychiatric units) in addition to other disproportionate share payments.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and former policy will remain in effect.

Copies of this emergency rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following rule in the Medical Assistance Program in accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B). This rule shall be effective for the maximum period allowed under this provision.

The prospective reimbursement methodology implemented in 1989 under the Louisiana Medicaid State Plan for inpatient psychiatric services requires that these distinct part units in acute general hospitals must meet Medicare Prospective Payment System (PPS) exempt criteria. The intent at that time was to improve access to such services for the Medicaid beneficiaries and application of this Medicare criteria focused on the quality of care requirements. The Medicaid standards for participation for providers do include eligibility for Medicare certification but do not require certification by Medicare as a distinct part psychiatric unit.

The Health Care Financing Administration has recently advised that the Medicaid certification practices for distinct part psychiatric units are not in compliance with the Medicare certification requirements. The Health Care Financing Administration has advised the Bureau of Health Services Financing that corrective action should be taken to assure that distinct part psychiatric units recognized by Medicaid also be certified by Medicare. This serves to assure that services of comparable quality are provided to both Medicaid and Medicare beneficiaries. Requirements that hospitals providing psychiatric services meet the minimum criteria for recognition as a distinct part psychiatric unit under Medicare will ensure that Medicare and dual Medicare and Medicaid beneficiaries are not deprived of the freedom of choice in such providers. Therefore, the following emergency rule has been adopted. It is estimated that implementation of this rule will reduce the state's expenditures for these services for the Medicaid beneficiaries by approximately \$17,733,443 annually once the phase-in period is completed.

This emergency rule will be effective August 30, 1993 to September 22, 1993.

Copies of the full text of this emergency rule may be obtained from the Office of the State Register, Room 512, 1051 North Third Street, Baton Rouge, LA. Copies of this emergency rule and all other Medicaid rules and regulations are available at Medicaid parish offices for review by interested parties.

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 responding to inquiries and providing information on this emergency rule. A public

hearing on the corresponding notice of intent on this emergency rule which is published in this issue of the *Louisiana Register* will be held at 9:30 a.m., Monday, October 25, 1993, at the Department of Transportation and Development, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. All interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services-Distinct Part Psychiatric Units

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following rule in the Medical Assistance Program in accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B). This rule is promulgated to comply with Subpart B - Hospital Services Subject to and Excluded from the Prospective Payment Systems for Inpatient Operating Costs and Inpatient Capital - Related Costs of Title 42 Code of Federal Regulations Chapter IV (10-1-92 Edition) and Section 1861(F) of the Social Security Act (42 U.S.C. section 1395x(F)) and to avoid federal sanctions or penalties. This emergency rule shall be effective September 22, 1993 for the maximum period allowed under this provision or until adoption of the rule.

The prospective reimbursement methodology implemented in 1989 under the Louisiana Medicaid State Plan for inpatient psychiatric services requires that these distinct part units in acute general hospitals must meet Medicare Prospective Payment System (PPS) exempt criteria. The intent at that time was to improve access to such services for the Medicaid beneficiaries and application of this Medicare criteria focused on the quality of care requirements. The Medicaid standards for participation for providers do include eligibility for Medicare certification but do not require certification by Medicare as a distinct part psychiatric unit.

The Health Care Financing Administration has recently advised that the Medicaid certification practices for distinct part psychiatric units are not in compliance with the Medicare certification requirements. The Health Care Financing Administration has advised the Bureau of Health Services Financing that corrective action should be taken to assure that distinct part psychiatric units recognized by Medicaid also be certified by Medicare. This serves to assure that services of comparable quality are provided to both Medicaid and Medicare beneficiaries. Requirements that hospitals providing psychiatric services meet the minimum criteria for recognition

as a distinct part psychiatric unit under Medicare will ensure that Medicare and dual Medicare and Medicaid beneficiaries are not deprived of the freedom of choice in such providers. Federal regulations governing such certification were promulgated on 3-29-85 in Volume 50 of the *Federal Register*, page 12741, and amended on August 30, 1991 (Volume 56, page 43420) and on September 1, 1992 (Volume 57, page 39821). An emergency rule was adopted on August 30, 1993 on Medicaid reimbursement requirements governing distinct part psychiatric units. That emergency rule is published in this issue of the *Louisiana Register*. The bureau is now repealing the August 30, 1993 emergency rule by adoption of the following emergency rule which includes the provisions in the August 30, 1993 emergency rule and to specify provisions governing the distinct part unit as of the first day of the first cost reporting period and changes in the size and status of these units. The August 30, 1993, emergency rule continues in force until the effective date of this emergency rule. A notice of intent incorporating the provisions of this emergency rule is also published in this issue of the *Louisiana Register*. It is estimated that implementation of these rules will reduce the state's expenditures for these services for the Medicaid beneficiaries by approximately \$12,556,694 annually once the phase-in period is completed.

EMERGENCY RULE

Effective September 22, 1993, inpatient psychiatric services (including substance abuse treatment) provided by acute care general hospitals must be provided in distinct part units which meet the criteria published in the August 30, 1993 emergency rule and the following requirement for the provision of these services except for emergency admissions which must be stabilized and transferred to an appropriate facility.

I. General Requirements

A. Basis for Recognition as Distinct Part Psychiatric Units. In order to receive Medicaid reimbursement for inpatient psychiatric services, a distinct part psychiatric unit (including an alcohol/drug rehabilitation unit) must meet the following requirements for Medicare and Medicaid certification:

1. be part of an institution that has in effect an agreement under part 489 - of the Code of Federal Regulations Chapter IV - Provider Agreements under Medicare;
2. have written admission criteria that are applied uniformly to Medicare/Medicaid and non-Medicare/Medicaid patients;
3. have admission and discharge records that are separately identified from those of the hospital in which it is located and readily available;
4. have policies specifying that necessary clinical information is transferred to the unit when a patient of the hospital is transferred to the unit;
5. meet applicable state licensure laws;
6. have utilization review standards applicable for the type of care offered in the unit;
7. have beds physically separate from (that is, not commingled with) the hospital's other beds;
8. be serviced by the same fiscal intermediary as the hospital;
9. be treated as a separate cost center for cost finding and

apportionment purposes;

10. use an accounting system that properly allocates costs;

11. maintain adequate statistical data to support the basis of the allocation;

12. report its cost in the hospital's cost report covering the same fiscal period and using the same method of apportionment as the hospital;

13. as of the first day of the first cost reporting period for which all other exclusion requirements are met, the unit is fully equipped and staffed and is capable of providing hospital inpatient psychiatric or rehabilitation care regardless of whether there are any inpatients in the unit on that date. (Note: A facility must be providing services to at least one patient the day that the initial survey is conducted.)

B. Changes in the Size of Distinct Part Psychiatric Units. For purposes of Medicaid reimbursement, the number of beds and square footage of each distinct part psychiatric unit will remain the same throughout each cost reporting period, and any changes in the number of beds or square footage considered to be a part of a distinct part psychiatric unit may be made only at the start of a cost reporting period. Verification of these changes will be completed during the Medicaid agency's on-site survey, at least 90 days prior and no less than 60 days prior to the end of the hospital's current cost reporting period with other information necessary for determining recognition as a distinct part psychiatric unit.

C. Changes in the Status of Hospital Units. The status of each hospital unit is determined at the beginning of each cost reporting period and is effective for the entire cost reporting period. Any changes in status of a unit are made only at the start of a cost reporting period.

II. Additional Requirements

A. Admit only patients whose admission to the unit is required for active treatment, of an intensity that can be provided appropriately only in an inpatient hospital setting, of a psychiatric principal diagnosis that is listed in the Third Edition of the American Psychiatric Association's Diagnostic and Statistical Manual, or in Chapter Five ("Mental Disorders") of the International Classification of Diseases, Ninth Revision, Clinical Modification.

B. Furnish psychological, social work, and psychiatric nursing services, and occupational and recreational therapy through the utilization of qualified personnel.

C. Maintain medical records that permit determination of the degree and intensity of the treatment provided to individuals in the unit, and that meet the following requirements.

1. Development of Assessment/Diagnostic Data. Medical records must stress the psychiatric components of the record, including history of findings and treatment provided for the psychiatric condition for which the inpatient is treated in the unit.

a) The identification data must include the inpatient's legal status.

b) A provisional or admitting diagnosis must be made on every inpatient at the time of admission, and must include

the diagnoses of intercurrent diseases as well as the psychiatric diagnoses.

c) The reasons for admission must be clearly documented as stated by the inpatient or others significantly involved, or both.

d) The social service records, including reports of interviews with inpatients, family members, and others must provide an assessment of home plans and family attitudes, and community resource contacts as well as a social history.

e) When indicated, a complete neurological examination must be recorded at the time of the admission physical examination.

2. Psychiatric Evaluation. Each inpatient must receive a psychiatric evaluation that must:

a) be completed within 60 hours of admission;

b) include a medical history;

c) contain a record of mental status;

d) note the onset of illness and the circumstances leading to admission;

e) describe attitudes and behavior;

f) estimate intellectual functioning, memory functioning, and orientation; and

g) include an inventory of the inpatient's assets in descriptive, not interpretative fashion.

3. Treatment Plan

a) Each inpatient must have an individual comprehensive treatment plan that must be based on an inventory of the inpatient's strengths and disabilities. The written plan must include a substantiated diagnosis; short-term and long-term goals; the specific treatment modalities utilized; the responsibilities of each member of the treatment team; and adequate documentation to justify the diagnosis and the treatment and rehabilitation activities carried out; and

b) The treatment received by the inpatient must be documented in such a way as to assure that all active therapeutic efforts are included.

4. Recording Progress. Progress notes must be recorded by the doctor of medicine or osteopathy responsible for the care of the inpatient, a nurse, social worker and, when appropriate, others significantly involved in active treatment modalities. The frequency of progress notes is determined by the condition of the inpatient but must be recorded at least weekly for the first two months and at least once a month thereafter and must contain recommendations for revisions in the treatment plan as indicated as well as precise assessment of the inpatient's progress in accordance with the original or revised treatment plan.

5. Discharge Planning and Discharge Summary. The record of each patient who has been discharged must have a discharge summary that includes a recapitulation of the inpatient's hospitalization in the unit including admission and discharge dates, and recommendations from appropriate services concerning follow-up or after care as well as a brief summary of the patient's condition on discharge.

D. Meet special staff requirements in that the unit must have adequate numbers of qualified professional and supportive staff to evaluate inpatients, formulate written, individualized, comprehensive treatment plans, provide active

treatment measures and engage in discharge planning, as follows:

1. Personnel. The unit must employ or undertake to provide adequate numbers of qualified professional, technical, and consultative personnel to:

a) evaluate inpatients;

b) formulate written, individualized, comprehensive treatment plans;

c) provide active treatment measures; and

d) engage in discharge planning.

2. Qualifications of professional, technical and consultative personnel are given below.

Director of inpatient psychiatric services - Medical Staff: Inpatient psychiatric services must be under the supervision of a clinical director, service chief, or equivalent who is qualified to provide the leadership required for an intensive treatment program. The number and qualifications of doctors of medicine and osteopathy must be adequate to provide essential psychiatric services.

a) The clinical director, service chief, or equivalent must meet the training and experience requirements for examination by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry.

b) The director must monitor and evaluate the quality and appropriateness of services and treatment provided by the medical staff.

3. Nursing Services. The unit must have a qualified director of psychiatric nursing services. In addition to the director of nursing, there must be adequate numbers of registered nurses, licensed practical nurses, and mental health workers to provide nursing care necessary under each inpatient's active treatment program and to maintain progress notes on each inpatient.

a) The director of psychiatric nursing services must be a registered nurse who has a master's degree in psychiatric or mental health nursing, or its equivalent, from a school of nursing accredited by the National League for Nursing, or be qualified by education and experience in the care of the mentally ill. The director of nursing must demonstrate competence to participate in interdisciplinary formulation of individual treatment plans; to give skilled nursing care and therapy; and to direct, monitor, and evaluate the nursing care furnished.

b) The staffing pattern must ensure the availability of a registered nurse 24 hours each day. There must be adequate numbers of registered nurses, licensed practical nurses, and mental health workers to provide the nursing care necessary under each inpatient's active treatment program.

4. Psychological Services. The unit must provide or have available psychological services to meet the needs of the inpatients. The services must be furnished in accordance with acceptable standards of practice, service objectives, and established policies and procedures.

5. Social Services. There must be a director of social services who monitors and evaluates the quality and appropriateness of social services furnished. The services must be furnished in accordance with accepted standards of

practice and established policies and procedures. Social service staff responsibilities must include, but are not limited to, participating in discharge planning, arranging for follow-up care, and developing mechanisms for exchange of appropriate information with sources outside the hospital.

6. Therapeutic Activities. The unit must provide a therapeutic activities program.

a) The program must be appropriate to the needs and interests of inpatients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

b) The number of qualified therapists, support personnel, and consultants must be adequate to provide comprehensive therapeutic activities consistent with each inpatient's active treatment program.

All distinct part psychiatric unit criteria must be verified by the state Medicaid agency. Existing hospitals with psychiatric inpatient services not in compliance with these distinct part unit requirements by the start of the next cost reporting period, will no longer receive Medicaid payments for psychiatric inpatient services. Existing facilities will continue to be recognized for the Medicaid payment of inpatient psychiatric services until the beginning of the next cost reporting period. This emergency rule is effective for cost reporting periods beginning after October 1, 1993. Payment for emergency admissions to hospitals without a distinct part unit for psychiatric care must be approved by the Medicaid director or his designee prior to payment. Payment will be at the psychiatric per diem rate.

An institution that is primarily engaged in providing psychiatric services for the treatment of mentally ill persons cannot be certified as a distinct part unit but must be certified as a psychiatric hospital. This is in accordance with Section 1861(f) of the Social Security Act.

Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and the former policy will remain in effect.

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 responding to inquiries and providing information on this emergency rule. A public hearing on the corresponding Notice of Intent on this emergency rule which is published in this issue of the *Louisiana Register* will be held on Monday, October 25, 1993 in the Department of Transportation and Development, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing. Copies of this emergency rule and all other Medicaid rules and regulations are available at Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Implementation and Testing of a New Method for Identification of Congenital Syphilis in Newborns

The Office of Public Health is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule effective September 1, 1993. The emergency rule will remain in effect for 120 days or until this rule takes effect under normal promulgation process.

This emergency rule will implement a pilot program to identify congenital syphilis in newborns using a new method of testing. The program will utilize heelstick screening and a new test to detect syphilis at birth rather than traditional methods.

Louisiana has the highest rate of adult syphilis in the country which has caused an epidemic of congenital syphilis (CS). CS is associated with significant morbidity and mortality, and the number of reported cases of CS in northwest Louisiana is among the highest in the state. There is some indication that CS is underreported and that the diagnosis of CS is being missed at birth in some newborns. The CDC has funded a \$50,000 grant for a study in northwest Louisiana to perform newborn heelstick screening for CS during the year 1993. The basic guidelines of the program include procedures for screening and notifying mothers and delivering physicians of positive results and for confidentiality of information. The project will also include data gathering and analysis of the validity of test results under the heelstick testing, compared to traditional methods.

Emergency adoption is necessary to initiate the new testing method in as soon as possible in order to identify and treat infants with congenital syphilis who may otherwise not be detected.

Rose Forrest
Secretary

DECLARATION OF EMERGENCY

Department of Labor Office of Labor

Job Training Partnership Act (LAC 40:XIII.Chapter 1)

(Editor's Note: A portion of the following emergency rule, which appeared on pages 861 through 873 of the July 20, 1993 *Louisiana Register*, is being republished to correct typographical errors.)

Title 40 LABOR AND EMPLOYMENT PART XIII. Job Training Partnership Act Chapter 1. General Provisions §121. Carry-Over Balances

* * *

A.2.b. Beginning in Program Year 1995 and applying to Program Year 1994, an amount equivalent to 15 percent of the previous year's total funds available will be classified as "allowable carry-out."

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), amended LR 10:546 (July 1984), LR 15:496 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended LR 18:372 (April 1992), repromulgated LR 18:493 (May 1992), amended by the Department of Labor, Office of Labor, LR 19:

Gayle F. Truly
Secretary

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of Alcoholic Beverage Control

Beer and Wine Sampling (LAC 55:VII.317)

Under the authority of the Alcoholic Beverage Control Law, particularly R.S. 26:287 and R.S. 26:150(AA), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety, commissioner of the Office of Alcoholic Beverage Control adopts an emergency rule amending the Liquor Credit Regulations, LAC 55:VII.317.D.6.

Emergency rulemaking is necessary since current regulations do not adequately regulate wine sampling on the premises of a licensed retailer.

This emergency rule is effective September 7, 1993 and shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

TITLE 55

Part VII. Alcoholic Beverage Control

Chapter 3. Liquor Credit Regulations

§317. Regulation Number IX. Prohibition of Certain Unfair Business Practices in Malt Beverage Industry

* * *

D. Exceptions

* * *

6. Trade Calls

a. Bar spending during trade calls, wherein the beer purchased by a manufacturer or wholesaler for a consumer is consumed on retail licensed premises in the presence of the giver, shall be lawful so long as the state's laws regulating retail establishments such as the legal drinking age, etc., are observed and not more than \$150 is expended during the trade call. No such trade calls may occur on college campuses. Manufacturers and wholesalers may be accompanied by entertainers, sports figures and other

personalities during trade calls. The trade calls may be pre-announced to consumers in the retail account through table tents, posters and other inside signs. No outside advertising of such events through signs or any media is allowed.

b. The gift of beer as a purely social courtesy to unlicensed friends and associates of a manufacturer or wholesaler shall be lawful.

c. Beer sampling tests for the purpose of determining consumer taste preferences may be conducted on premises holding a regular Class A permit, provided that notification in writing is provided the department at least one week prior to the date of the testing.

d. Wine sampling tests for the purpose of determining consumer taste preferences may be conducted on premises holding a regular Class A or B permit if the permittee grosses at least 75 percent of its average revenue from the sale of alcoholic beverages.

i. No wholesaler or manufacturer shall furnish, give or lend any equipment, fixtures, signs, supplies, money, services or other thing of value, directly or indirectly, for such wine sampling tests.

ii. No wine sampling in a greater quantity than two ounces per bottle for each type of wine shall be offered or provided any one individual at any one sampling test.

iii. All wine sampling tests shall be limited in duration to one day.

iv. No more than two wine sampling tests shall be conducted on the same licensed premises in each month.

v. Written notification shall be provided the Office of Alcoholic Beverage Control at least one week prior to the date of the wine sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:287 and R.S. 26:150(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 4:464 (November 1978), LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 19:

Raymond E. Holloway
Assistant Secretary

DECLARATION OF EMERGENCY

Department of Transportation and Development Office of Weights and Standards

Multiple Overweight Violations for Vehicles (LAC 73:I.901)

The Department of Transportation and Development, Office of Weights and Standards, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective September 20,

1993, to provide for the issuance of multiple penalties for multiple overweight violations by the Weights and Standards Police.

Emergency rule making is necessary to comply with R.S. 32:388.1 as amended and reenacted by Act 692 of 1993, and to avert the administration of sanctions and withholding of federal funding by the Federal Highway Administration.

Title 73

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

Part I. Office of Weights and Standards

Chapter 9. Overweight Penalties

§901. Multiple Overweight Penalties

Whoever owns or drives any vehicle or combination of vehicles in violation of two or more of the provisions of R.S. 32:386 shall be assessed the greater or the greatest of the penalties, in the full amount of the penalty, and additionally, the owner or driver shall be assessed a penalty of \$10 for each other violation committed at the same time and arising out of the same incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:388.1 as amended by Act 692 of the 1993 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 19:

Jude W. Patin
Secretary

DECLARATION OF EMERGENCY

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

Pre-existing Conditions

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program intends to amend language in the Plan Document of Benefits. This rule will go into effect on August 12, 1993, and will remain in effect for 120 days. The Board of Trustees of the State Employees Group Benefits Program is adopting this rule to administratively comply with Act 663 of the 1993 Regular Legislative Session and the 1993 Federal Family Leave Act:

Delete the provisions of Article 1, Section II (D)(1) as indicated below:

D. Pre-Existing Condition

1. New employees hired on or after April 1, 1991, except those individuals who are already covered as a dependent under the program on their effective date of coverage are subject to the following:

a. The program will require all new employees who apply for coverage within 30 days from the date the employee

became eligible for coverage to complete a Statement of Physical Condition form and sign an Acknowledgement of Pre-existing Condition form.

b. Benefits will be limited to a maximum of \$1,000 during the first 12 months of coverage for any disease, illness, accident or injury for which the covered person received treatment or services, or was prescribed drugs, during the six month period immediately prior to the effective date of coverage.

Delete the provisions of Article 1, Section II (D)(4) as stated below:

4. Transfer of coverage from a Health Maintenance Organization (HMO)

Effective July 1, 1990, if a covered person enrolled in an HMO voluntarily transfers coverage back to the state plan, a \$1,000 pre-existing condition limitation shall be imposed for a 12-month period for any disease, accident, illness or injury for which the covered person received treatment or services or was prescribed drugs during the six-month period ending on the first day immediately following the close of the open enrollment period. An employee who transfers coverage from an HMO to the state plan shall be required to complete a Statement of Physical Condition form and sign an Acknowledgement of Pre-existing Condition form. However, there shall be no pre-existing condition limitation imposed when: 1) the covered person transfers coverage as a result of moving from the HMO service area or 2) when the HMO discontinues services for all state employees, unless the covered person had a pre-existing condition limitation with the State Employees Group Benefits Program at the time of the original transfer to the HMO. Furthermore, a plan member will not have a pre-existing condition limitation on any condition diagnosed, and accident or any injury occurring between May 1 and July 1 of the open enrollment period.

Delete also, Article 1, Section II (C)(2)(a) beginning on line four:

...subject to the provisions in Article 1, Section II (D)(1).

After the deletion it should read:

a. Dependents of Employees

Dependents of an employee who make written application for dependent coverage and agree to make the required contributions to the participant employer are to be covered for dependent benefits on the date the employee becomes eligible to carry dependent coverage or, if an overdue application, as provided for in Article 1, Section II (D)(2).

James R. Plaisance
Executive Director

DECLARATION OF EMERGENCY

Department of Treasury Bond Commission

Disclosure of Agreements between Financial Professionals for Negotiated Transactions

In accordance with R.S. 49:953(B), the Department of Treasury, Bond Commission adopts an emergency rule, effective August 19, 1993, for 120 days.

The duties of the Bond Commission (the "commission") require that it choose financial professionals (including, without limitation, firms of underwriters, financial advisors and bond attorneys) in connection with certain bond issues and the commission predicates such choices upon the competing firms' experience, qualifications and performance, in order that a broad spectrum of firms including minority and women-owned and regional firms are given an opportunity to actively and fully participate in such financings.

The commission's duties also require that it approve applications from local governmental entities to issue bonds and such applications include information on the financial professionals involved in handling the issues.

In order to insure the integrity of the structure of the financing team which the commission is charged with the responsibility of choosing and/or approving for handling bond issues, the commission hereby adopts the following emergency rule regarding agreements by and between such financial professionals as to the sale of such bonds:

1. Terms and/or existence of all joint accounts and/or any other fee-splitting arrangements by and between financial professionals must be disclosed and approved by the commission.

2. For bond issues for which the commission is charged with the responsibility to choose the financial professionals, the following will apply:

a. Firms under consideration for selection by the commission must file a disclosure statement to be submitted as part of their proposal (whether such proposal is solicited or unsolicited), listing any and all agreements by and between themselves and any other financial professionals which relate to the bond issue.

b. Financial professionals must include, in any proposal submitted to the commission, the name or names of any person or firm, including attorneys, lobbyist and public relations professionals engaged to promote the selection of the particular financial entity.

c. Joint proposals from financial professionals will be allowed only if the commission's solicitation for offers requests and/or permits joint proposals. The commission reserves the right, in its sole discretion, to decide on an issue-by-issue basis whether joint proposals will be permitted.

d. All financial professionals submitting joint proposals and/or intending to enter into joint accounts or any fee-splitting arrangements in connection with a bond issue must fully disclose and have approved by the commission any plan or arrangement to share tasks, responsibilities, and fees earned, and disclose the financing professionals with whom

this sharing is proposed, and any changes thereto which may occur.

e. The Agreement Among Underwriters will govern all transactions during the underwriting period and such agreement must be disclosed and filed with the commission.

f. No later than 45 days following the bond sale, all participating underwriters must file with the commission in notarized affidavit form individual post-sale reports which include a full accounting for all bonds sold and all commissions earned, and any other compensation paid or earned in connection with such sale.

3. Failure to comply with any of the provisions of Section 1 or 2 of this emergency rule may result in a firm's immediate dismissal, disqualification from later issues, or other penalties as may be provided by law or the rules, policies and procedures of the commission as the commission, in its sole discretion, may deem appropriate.

4. For those bond issues which the commission must approve but for which the commission is not responsible for the choice of the financial professionals, the following will apply:

a. The details of any arrangements for compensation of all the financial professionals in the transaction (including any joint accounts or fee-splitting agreements) and the method used to calculate the fees to be earned must be provided to the commission in the written application. The commission's receipt of this information is a prerequisite for being placed on the agenda.

b. At closing, this information must be certified in notarized affidavit form by the financial professional to be correct and filed with the State Bond Commission within five days thereof. This information will form a part of the public record of the bond issue.

Mary L. Landrieu
Treasurer

DECLARATION OF EMERGENCY

Department of Treasury Bond Commission

Lines of Credit

The Department of Treasury, Bond Commission amended the commission's rule on August 19, 1992 as originally adopted on November 20, 1976.

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 prior to the sale of bonds for that project. The maximum amount of lines of credit which may be authorized by the commission shall be \$150,000,000. 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, lines of credit have been granted, or a certificate of impossibility and impracticality has been issued for all projects of higher priority as stated in the comprehensive capital 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.

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 is for the purpose of furthering the applicable project adopted 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 funds may be used to pay obligations which may be incurred if such contracts are executed 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 agreement in question pertains. Failure to comply with such 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 Commission to the Attorney General's Office and the District Attorney's Office.

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 rule is effective immediately and will remain in effect until the delivery of the next issue of general obligation bonds of the state of Louisiana or 120 days, whichever occurs earlier, at which time the maximum amount of lines of credit which may be authorized by the commission shall be \$100,000,000.

Rae W. Logan
Director

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Furbearer Trapping Season

In accordance with the emergency provisions of R.S. 49:953(B) the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set the furbearer trapping season and the rules regulating it, and R.S. 56:260, the 1993-94 furbearer trapping season is hereby established in accordance with the following regulations.

The season for the trapping of furbearers by licensed trappers shall be:

North Zone: all furbearers, November 20, 1993 through February 15, 1994.

South Zone: all furbearers, December 1, 1993 through February 28, 1994.

Experimental Season: February 16, 1994 through March 15, 1994; soft catch (padded jaw) and non-locking snare only.

The boundary between the North and South Zones will be: Interstate Highway 10 from the Texas state line to Baton Rouge; Interstate Highway 12 from Baton Rouge to Slidell; and Interstate Highway 10 from Slidell to the Mississippi line.

Bobcat and otter by federal restriction is imposed by the CITES Scientific Authority require the placement of an export tag prior to out-of-state shipment.

Bert H. Jones
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Waterfowl Hunting Season

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

The hunting seasons for ducks, coots and geese during the 1993-94 hunting season shall be as follows:

Ducks and Coots (Closed Season on Canvasbacks)

West Zone: 30 days

November 13 (Saturday) - November 28 (Sunday) 16 days

December 27 (Monday) - January 9 (Sunday) 14 days

East Zone: 30 days

November 20 (Saturday) - November 28 (Sunday) 9 days

December 27 (Monday) - January 16 (Sunday) 21 days

Catahoula Lake: 30 days

November 20 (Saturday) - November 28 (Sunday) 9 days

December 13 (Monday) - January 2 (Sunday) 21 days

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

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

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

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

Geese (Statewide Season)

November 13 (Saturday)-December 5 (Sunday) 23 days

December 18 (Saturday)-February 2 (Wednesday) 47 days

February 3 (Thursday)-February 12 (Saturday) 10 days

Daily Bag Limit: Daily bag limit is seven in the aggregate of blue, snow and white-fronted geese of which not more than two may be white-fronted (specklebellies). During the last 10 days (February 3-12), only blue and snow geese may be taken. During the Canada goose season (January 19-27) the daily bag limit for Canada geese and white-fronted geese is two, of which not more than one can be a Canada goose. Possession limit is twice the daily bag limit.

Canada Goose Season: January 19-27

A goose season will be open in a portion of southwest Louisiana. The area shall be described as follows: Easterly from the Texas line along Highway 12 to Ragley; then easterly along U.S. 190 from Ragley to its junction with I-49 near Opelousas; then south along I-49 to its junction with Highway 167 near Lafayette; then south along Highway 167 from Lafayette to its junction with Highway 82 at Abbeville; then south and west along Highway 82 to the Intracoastal Waterway at Forked Island; then westerly along the Intracoastal Waterway from Forked Island to the junction of the Intracoastal Waterway and the Calcasieu Ship Channel; then south along the west side of the Calcasieu Ship Channel to Highway 82 at Cameron; then westerly along Highway 82 to the Texas line. All lands lying within these boundaries shall be open for the experimental Canada goose season except all open waters of Lake Arthur and the Mermentau River from the Highway 14 bridge southward.

A special permit shall be required to participate in the Canada goose season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from the Lake Charles, Opelousas and Baton Rouge offices.

Return of harvest information requested on permit is mandatory. Failure to submit this information by February 14, 1994 will result in the hunter not being allowed to participate in Canada goose season the following year.

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

The aforementioned season dates, bag limits and shooting hours will become effective on November 13, 1993 and extend through sunset on February 20, 1994.

Bert H. Jones
Chairman

RULES

RULE

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

St. Tammany Ban on Herbicides (LAC 7:XXIII.13139)

Notice is hereby given that the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, has adopted and amended the following rules:

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 131. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§13139. Restrictions on Application of Certain Pesticides

A. - L. ...

M. No person shall apply, use, or incorporate the use of any herbicide, as defined in LAC 7:XXIII.13103., including but not limited to, those registered with and/or approved by the U. S. Environmental Protection Agency or the Louisiana Department of Agriculture and Forestry, for the management, control, eradication or maintenance of weeds, grass, trees, shrubs, foliage, vegetation or other natural growth in any parish right-of-way, ditch, servitude, drainage area, roadside, road shoulder, green area, buffer zone, waterway, neutral ground or median in the unincorporated areas of St. Tammany Parish.

1. Definitions as used in this Subsection M:

Ditch—natural or dedicated area which provides for the containment or flow of water from rain or adjacent drainage areas or waterways such as streams, creeks, ponds, lakes or rivers.

Drainage area—an area maintained for the purpose of channeling or preventing accumulation of water from surrounding land.

Easement—a designated right to use the property of another for a specific purpose, i.e., drainage, utility easement.

Median/Neutral Ground—the area dividing or separating a roadway and not used for right of passage.

Right-of-Way—any public way, street, road, alley, easement, servitude or access, which was dedicated to or acquired by the St. Tammany Parish to provide means of access to abutting properties; whether paved, improved or

unimproved, including those areas dedicated for proposed or future uses.

Roadside/Road Shoulder—natural or dedicated areas which are parallel, contiguous to, abut, adjoin, border, edge, connect or approach any public right-of-way, road, street or highway.

Servitude—a right-of-way through or across property belonging to another.

2. Exemptions herefrom are hand held manual pump sprayers up to a maximum three gallon capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19: (September 1993).

Subchapter BB. Pesticide Wastes

§ 13205. Appropriate actions

A. ...

B. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner shall take one or more of the following actions:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 19:610 (May 1993), amended LR 19: (September 1993).

These rules comply with and are enabled by the Louisiana Pesticide Law, in particular R.S. 3:3203 and 3:3271.

Bob Odom
Commissioner

RULE

Department of Agriculture and Forestry Office of Marketing Market Commission

Poultry and Egg Standards (LAC 7:V.Chapter 15)

Under the authority of the State Market Commission, R.S. 3:401 et seq., the Louisiana Egg Commission, R.S. 3:551.1 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry, Office of Marketing, Market Commission has amended, repealed and adopted in part the following regulations pertaining to inspection and grading of poultry and eggs.

These rules comply with and are enabled by R.S. 3:405, 3:412 and 3:551.6.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 15. Market Commission-Poultry and Eggs

Subchapter A. Certification of Official State Grades of Poultry, Poultry Products and Shell Eggs for State Institutions and Voluntary Program Participants

§1503. Requirement for Certification of Poultry, Poultry Products, and Shell Eggs

A. The examination, acceptance and certification of poultry, poultry products, and shell eggs shall be in accordance with U.S. Department of Agriculture, A.M.S. (Agricultural Marketing Service), Poultry Grading Branch poultry and egg grading and inspection requirements.

B. Each master or shipping container of poultry and egg products shall be legibly labeled to show the net weight, U.S. grade (if applicable), inspection mark, plant name and address, kind, class, and weight range.

C. A Louisiana certificate of condition and origin must be issued no more than seven days prior to delivery and must accompany each delivery of product to a state agency or political subdivision of the state. The certificate of condition examination and origin must contain:

1. the origin of the product, except as provided in LAC 7:1503(E) below;
2. the purchase order number of the purchasing agency;
3. verification of
 - a. condition of the product, i.e., no change in the product since initial inspection, and
 - b. compliance with the specifications of the purchase order.

D. The purchase order of the purchasing agency must indicate whether or not a vendor has claimed a preference based on provision of Louisiana agricultural products. When the purchase order of the purchasing agency does not indicate that the vendor has claimed a Louisiana agricultural products preference, no certification as to origin of the product will be made.

E. Each master or shipping container of poultry, poultry products, and shell eggs meeting the specifications of the purchase order shall be stripped on the outside of the container with non-glossy filament tape or equivalent. All tape used for sealing purposes must be approved by the Louisiana Department of Agriculture. The tape shall be placed so that it must be torn to open the container.

F. Each master or shipping container must be stamped with the U.S.D.A. contract compliance stamp and certificate number or U.S.D.A. Sample Grade stamp and date or bear the U.S.D.A. shield. The stamp imprint must be legible and placed partially on the container and partially on the tape on the end of the container.

G. All containers of Louisiana agricultural products must be stamped with a Louisiana agricultural products stamp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of

Agriculture, Market Commission, LR 8:271 (June 1982), amended LR 19: (September 1993).

§1505. Time Limitation for Issuance of Certificate

A state of Louisiana condition examination and origin certificate must be issued not more than seven days prior to the scheduled delivery of the product to the purchasing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended LR 19: (September 1993).

§1511. Contractor's Obligations

A. Vendors requesting certification services under these regulations must provide such assistance as may be necessary to expedite the examination and certification of products and the taping of containers, including the provision of the necessary tape.

B. Vendors desiring certification services must notify the Department of Agriculture at least 24 hours in advance of need. Vendors who fail to give at least 24 hours advance notice of need shall be subject to a penalty of \$50, regardless of the time required for the services or the fees assessed.

C. The cost of all examination and certification services shall be paid by the vendor at the current U.S.D.A. rate for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed.

D. Vendor must reimburse the Department of Agriculture for travel expenses of the inspector providing services, at the rate specified in state travel regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:412 and R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended LR 9:411 (June 1983), amended LR 19: (September 1993).

Subchapter B. Egg Grading and Marketing

§1513. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, repealed LR 19: (September 1993).

§1515. Definitions

For the purpose of these regulations the following words, terms and phrases shall be construed to mean:

Ambient Temperature—the atmospheric temperature surrounding or encircling shell eggs.

Boiled Eggs—eggs that are hard or soft boiled, that are pickled, frozen, or by any other means preserved and sold commercially.

Broker—a person who never assumes ownership or possession of eggs, nor changes the grade or pack of eggs, but is engaged in the business of acting as agent, for a fee or commission, in the sale or transfer of eggs between producers, or dealer-wholesalers as sellers and dealer-wholesalers, processors, or retailers as buyers.

Candling—the practice of examining the interior of an egg by use of transmitted light for determining whether it is inedible, and for determining quality in grading edible eggs.

Case—30 dozen per case of shell eggs.

Commissioner—the Commissioner of Agriculture and

Forestry of the State of Louisiana.

Consumer—any person using eggs for food, and shall include restaurants, hotels, cafeterias, hospitals, state institutions, schools, other places not specifically named such as bakeries, day care centers, nursing homes, etc. or any other establishment serving food to be consumed or produced on the premises, but shall not include the Armed Forces or any other federal agency or institution.

Dealer-wholesaler—any person engaged in the business of buying eggs from producers or other persons on his own account and selling or transferring eggs to other dealer-wholesalers, processors, retailers, or other persons and consumers. A *dealer-wholesaler* further means a person engaged in producing eggs from his own flock and disposing of any portion of the production on a graded basis.

Denatured—rendering unfit for human consumption by treatment or the addition of a foreign substance such as lampblack, methylene dye, powdered charcoal or kerosene, in addition to crushing of the egg shells.

Department—the Louisiana Department of Agriculture and Forestry.

Egg Producer—any person, farm, corporation, or other entity that produces eggs.

Egg Products Inspection Act—Public Law 91-597, Egg Products Inspection Act, dated 12/29/70.

Eggs—the product of the domesticated chicken offered for sale for human consumption.

Federal Standards—the quality and weight requirements for grades as defined in the United States Standards for Shell Eggs that are now or may hereafter be established by the United States Department of Agriculture.

Frozen Egg Products—frozen whole eggs, frozen whites, or frozen yolks or any combination thereof to which have been added salt, sugar, or other food or noninjurious food additive.

Frozen Eggs, Frozen Egg Yolks, or Frozen Mixed Eggs—the food prepared by freezing liquid eggs.

Inedible and Unfit for Human Consumption—for eggs, this shall mean eggs described as black rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, eggs containing embryo chicks (at or beyond the blood ring stage), leakers, and any eggs that are adulterated as such term is defined pursuant to the Food, Drug and Cosmetic Act.

Offered for Sale—eggs that are housed within any wholesale or retail place of business, or on or alongside of any loading or unloading platform in the state of Louisiana, or within a truck or other carrier that has come to rest within the state of Louisiana.

Packer—any person who grades, sizes, candles, and packs eggs for the purpose of resale.

Person—any individual, partnership, association, business trust, corporation or any organized group of persons, whether incorporated or not.

Possession—the fact of possession by any person engaged in the sale of a commodity is prima facie evidence that such commodity is for sale.

Processor—a person who operates a plant for the purpose

of breaking or boiling eggs for freezing, drying, or commercial food manufacturing.

Producer—any person engaged in the business of producing eggs in Louisiana, either as an owner or as an officer or stockholder of a business engaged in producing eggs in Louisiana, or any person deriving a profit from such business.

Retailer—any person who sells eggs to a consumer.

Sell—to "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter," or "trade."

Standard—the quality specifications for a single egg, and a group of standards is combined to make a grade.

U.S.D.A.—the United States Department of Agriculture.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19: (September 1993).

§1516. Temperature Requirements

A. The temperature of shell eggs shall be held at an ambient temperature of 45° F or below at all times when being transported, stored, or displayed for sale except for brief periods of loading or unloading.

1. No shell egg handler shall possess any shell eggs that are packed into containers for the purpose of resale to the consumer unless they are labeled with the following statement: "keep refrigerated at or below 45° F."

2. Every person, firm, or corporation selling eggs for the purpose of resale to the consumer must store and transport shell eggs under refrigeration at an ambient temperature no greater than 45° F, and all containers of eggs must be labeled with the following statement: "keep refrigerated at or below 45° F." This includes retailers, institutional users, restaurants, nursing homes, dealer/wholesalers, food handlers, transportation firms, or any person who delivers to the retail or consuming trade.

B. Packers shall not be responsible for the interior quality of eggs if all recommended handling procedures in this Section are not followed by all parties following point of sale by packer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19: (September 1993).

§1517. Sale or Offering for Sale of Eggs within Louisiana

A. No person, firm, or corporation shall sell, traffic in, or deliver to the retail or consuming trade, any eggs unfit for human consumption nor any eggs that do not meet Grade B requirements.

B. All eggs offered for sale in the state of Louisiana are subject to inspection by personnel of the Louisiana Department of Agriculture before being placed in retail outlets. If a particular lot of eggs does not meet the Louisiana grade standards the said lot may be seized by the inspector.

C. This Chapter shall be applicable to all retailers of eggs, except that retailers shall be permitted to sell eggs, identified as unclassified, when such eggs are purchased directly from producers who own less than 500 hens.

D. Invoices

1. Every person, firm, or corporation selling eggs to a

retailer or manufacturer shall furnish an invoice showing the size, quality, and date of transaction of such eggs according to the standards prescribed by this Section together with the name and address of the person by whom the eggs were sold. This invoice shall be retained for two years.

2. Retailers shall be required to produce an invoice showing origin of eggs. These invoices must be kept for a period of two years. These invoices shall also show the name and address of the vendor, producer, packer, dealer-wholesaler or broker.

E. Containers

1. All containers shall show the name and address of the producer.

2. Any and all eggs offered for sale at retail shall be prepackaged, and shall be plainly marked as to grade and size with letters not less than three-eighths inch in height.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19: (September 1993).

§1519. Louisiana Standards, Grades and Weight Classes for Shell Eggs

A. Louisiana standards, grades and weight classes for shell eggs shall be as defined in the United States Standards that are now or may hereafter be established by the United States Department of Agriculture.

B. Louisiana Consumer Grades

The official Louisiana consumer grades for shell eggs are as follows:

Grade AA
Grade A
Grade B

C. Louisiana Weight Classes

Jumbo	Medium
Extra Large	Small
Large	Peewee

D. These grades are applicable to edible shell eggs in lot quantities rather than on an individual egg basis. A lot may contain any quantity of two or more eggs.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405 and R.S. 4:10.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19: (September 1993).

§1520. Inspections; Fees; Failure to Meet Standards

A. All eggs offered for sale in the state of Louisiana are subject to inspection by personnel of the Louisiana Department of Agriculture and Forestry.

B. There shall be a two cent per case assessment for all shell eggs graded or processed in the state of Louisiana. In addition, any plant outside of the state of Louisiana shipping eggs into Louisiana, for wholesale or retail, shall be charged the same assessment. This assessment shall be dedicated to the Louisiana Egg Commission.

C. An additional 16 cent per case inspection fee for all graded or processed shell eggs or egg products sold in the state of Louisiana, if the sale is to the consumer or if the purchase by the buyer is for the purpose of resale at the consumer level, or if by the dealer/wholesaler for the purpose of resale.

D. All egg products plants from outside the state of Louisiana shall be responsible for the fees due on all product entering the state of Louisiana. Additionally, at the discretion of the department, a dealer/wholesaler selling egg products in the state of Louisiana could be held liable for fees due in lieu of an egg products plant based on the following formula:

1. 36 pounds of frozen or liquid eggs shall represent a 30 dozen case of shell eggs.
2. nine pounds of dried eggs shall represent a 30 dozen case of shell eggs.
3. two containers of boiled eggs weighing 20 to 25 pounds each shall represent a 30 dozen case of shell eggs.
4. 50 pounds of cooked or diced eggs shall represent a 30 dozen case of shell eggs.
5. boiled/pickled eggs: case equivalent shall be determined by dividing the number of eggs in a container by 360.

E. Packers/producers shall be required to report and pay inspection fees on reported volume on a monthly basis. This shall be paid not later than the fifteenth of the following month. If a report is not received by the due date, a letter shall be sent to the packer/producer reminding them of the past due report. If the packer does not report within 10 days from date of the past due notice, the packer/producer's license shall be suspended and all eggs found shall be put off sale.

F. Report forms shall be supplied by the Louisiana Department of Agriculture and Forestry, Poultry and Egg Division. It shall be the responsibility of the packer to request these forms as they are needed.

G. Brokers and dealers/wholesalers shall be required to furnish evidence of origin by invoice on eggs which they handle. Dealer/wholesalers shall report volume of sales monthly on forms furnished by the department. On sale of eggs produced out-of-state, the last dealer/wholesaler that handles the eggs before they enter the retail market shall be responsible for paying all fees, if the out-of-state producer/packer has not paid such fees. Any fees collected from the out-of-state producer/packer that have been paid by the dealer/wholesaler shall be refunded to said dealer/wholesaler. In-state producers or packers are responsible for all fees of eggs they have sold in this state. Fees shall be paid not later than the fifteenth of the following month.

H. Brokers shall be required to furnish evidence of origin by invoice on eggs which they handle and sell in Louisiana. If eggs are nest run, then the packer buying such eggs shall be responsible for fees. If the eggs have been graded, then the packer who graded the eggs shall be responsible. However, if the state is not able to collect the fees from the out-of-state packer then the in-state packer shall be responsible for all fees. No fees shall be charged to place of origin on nest-run eggs; the packer buying the eggs shall be responsible for all fees.

I. Underpayment or overpayment found during audits are to be reported on the next monthly egg inspection report to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19: (September 1993).

§1522. Destination Tolerances; Additional Inspection Fees

A. No eggs shall be sold for resale to the consumers below U.S. Grade B, nor shall any eggs be sold as fresh eggs if the eggs are over 30 days of age.

B. Eggs not meeting destination tolerances of the grade designated on the container shall be subject to an additional inspection fee and shall have a Stop Sale place on them.

C. Eggs not meeting Grade B standards shall have a Stop Sale issued, pay an additional inspection fee as set forth below, and be retained under U.S.D.A. provisions.

	Grade A Standards**	Grade B Standards*
1 - 10 cases	\$ 5.00	\$15.00
11 - 30 cases	20.00	30.00
31 - 99 cases	30.00	60.00
over 100 cases	40.00	80.00
*eggs failing to meet Grade B standards may be retained with a U.S.D.A. tag and a PY 518 Alleged Violations and Detention Notice.		
**eggs failing to meet Grade A standards, but which meet Grade B standards shall be returned under a Louisiana Stop Sale, and shall be subject to an additional inspection fee.		

D. If an appeal grading is asked for and the inspector's decision is upheld, the party asking for the appeal grading shall pay all expenses incurred at the current federal rate. If the inspector's decision is reversed, the state shall absorb all expenses. Appeal grading shall be performed by the director or assistant director of the Poultry and Egg Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19: (September 1993).

§1523. Labeling, Advertising and Displaying of Eggs

A. Terms, words, phrases, symbols, etc. used in the labeling and advertising of eggs such as fresh, newly laid, and yard eggs shall be applied only to eggs having not less than the minimum quality requirements of U.S.D.A. consumer Grade A or better and which have been so labeled as to grade and size.

B. Each carton or sleeve shall have on each individual container the following:

1. the grade and size;
2. the date when packed;
3. the name and address of packer/producer;
4. the Louisiana license number issued by the Louisiana Egg Commission (example: La000);
5. the phrase "keep refrigerated at 45° F or below";

C. Each case, regardless of size, of loose eggs shall have marked on one end:

1. the grade and size;
2. the name and address of packer/producer;
3. the date when packed;
4. the Louisiana license number (example: La000);
5. the phrase "keep refrigerated at 45° F or below" (this may be placed on the side or top of the case).

D. Eggs that are packed on flats (cartons that do not have tops or lids) and are shrink wrapped shall have the above information on a place card no smaller than 5 x 8 inches displayed immediately above the eggs so packed that are being offered for sale to the consumer. It is the responsibility of the retailer to see that such signs are posted.

E. License numbers shall have "La" preceding the number (example: La001).

F. All eggs advertised or displayed for sale for human consumption shall designate the correct grade and size, and such designation shall also appear on the exterior of the container in which eggs are offered for sale.

G. Restaurants, hotels, and other dining places using eggs below Grade A quality shall be required to display a placard of heavy cardboard of not less than 8 x 11 inches, stating the quality and weight of the eggs used by the establishment, in a location where it can easily be seen by the customers, or in lieu thereof, place this information on the menu. If packers, jobbers, or dealer-wholesalers sell eggs below Grade A quality to restaurants, hotels, and other eating establishments, it shall be their responsibility to inform them to post such notices.

H. Grade and size of eggs must be identified in ads, papers, circulars, and point-of-sale materials.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19: (September 1993).

§1525. Exemption

Producers selling eggs of their own production on their own premises to individuals are exempt from the provisions of these regulations. No more than 30 dozen can be sold to one person at one time.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19: (September 1993).

§1528. Audits

A. All license holders are subject to yearly audits and must be audited at least once every two years to insure proper reporting of egg inspection fees and egg assessments to the Louisiana Egg Commission. Audits shall be performed by employees of the Louisiana Department of Agriculture and Forestry. Travel expenses incurred in conducting out-of-state audits are to be reimbursed to the Department of Agriculture and Forestry by out-of-state license holders.

B. The out-of-state daily allowance for meals and lodging, plus travel expense to and from locations of license holders shall be the maximum amount reimbursable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19: (September 1993).

§1529. Prohibited Acts

It is prohibited to:

1. prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, sale in bulk or containers or advertise by sign, placard or otherwise any eggs for human consumption which are mislabeled, that are, or contain inedible eggs not denatured, or eggs that have been incubated;

2. use descriptive terminology for eggs that have not been graded and sized according to the standards set forth by the Louisiana Department of Agriculture and Forestry;

3. use descriptive terminology such as "fresh," "farm," "country," etc., or to represent the same to be "fresh" any eggs excepting those eggs that meet the minimum requirements of Grade A destination standards and are less than 30 days of age;

4. sell to the consumer eggs that are over 30 days of age.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended LR 19: (September 1993).

§1531. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, repealed LR 19: (September 1993).

§1533. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, repealed LR 19: (September 1993).

Subchapter C. Identification of Graded Dressed and

Drawn (Ready-to-Cook) Poultry

§1535. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, repealed LR 19: (September 1993).

§1537. Definitions

Further Processing—when referring to poultry, means a poultry plant engaged in further processing of poultry - i.e., nuggets, patties, breaded products, etc.

Poultry—means any domesticated fowl, including chickens, turkeys, ducks, and geese.

Poultry Plant—a plant engaged in the business of slaughter or processing poultry for sale, either fresh or frozen.

R.T.C.—when referring to poultry, means "ready-to-cook," no further processing is necessary.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended LR 19: (September 1993).

§1539. Application

A. No poultry may be offered for sale to the consumer unless it was slaughtered in a federally inspected plant or in a Louisiana plant that is state inspected to insure sanitation and to insure that the product is wholesome.

B. The specifications for poultry grade shall, at all times, be based upon *THE UNITED STATES QUALITY STANDARDS FOR POULTRY* formulated by the United States Department of Agriculture.

C. The Louisiana Department of Agriculture shall cooperate with the United States Department of Agriculture or any other agency in formulating cooperative programs for the furtherance of these regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended LR 19: (September 1993).
§1541. Labeling, Advertising and Displaying of Poultry

A. No poultry can be advertised for sale in newspapers, radio, store ads, or other means as Grade A, U.S. Grade A, or U.S.D.A. Grade A unless the product bears the U.S.D.A. Grade A shield. A store may advertise "cut-from grade A poultry" only if it is able to prove that the product was cut from Grade A whole poultry. It may not advertise "cut-from Grade A poultry" if it has in its place of business any like product that is not Grade A. (Example: it cannot advertise "8 piece cut chicken, cut from Grade A birds" if it has invoices, or whole product that was not Grade A.)

B. No retailer may mark product as grade A, A grade, or U.S. Grade A, either on the product or in placards above the product, or elsewhere in the store unless it has been graded and has a U.S.D.A. Grade Shield on the packaging, if individually wrapped. If the product was bulk packed, then the retailer must have the label from the original master container and sales invoice to prove the product is A grade.

C. Wholesale

Whole birds, cut-up, and parts must be labeled or have imprinted or stamped on the individual wrappers the grade (if graded, the U.S.D.A. shield must also be on each container), part name or whole bird statement, name and address of the plant (including plant number except in the case of whole birds, the plant number may be on the clip), and U.S.D.A. legend.

D. Retail (not packaged, bulk)

In refrigerated cases with open displays of R.T.C. poultry, placards declaring the grade (if any) and part name or whole bird statement must be displayed immediately adjacent thereto. The size of the print used on such placard shall be large enough to be easily read.

E. Retail (packaged)

Packaged R.T.C. poultry offered for sale at retail must be labeled to show grade (if graded), part name or whole bird statement, net weight, and name and address of plant where produced. If packaged by the store, package must show store name.

F. All master containers in which dressed R.T.C. poultry, either loose or in smaller containers or individual wrappers, must also be labeled to show grade if any, part name, or whole bird statement, name and address of plant or dealer, and U.S.D.A. Legend (if from out-of-state).

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended LR 19: (September 1993).
§1543. Penalties

A. Any person, corporation or other organization violating the provisions of the Chapter may be fined not less than \$25 or more than \$500, as provided by Louisiana Revised Statutes of 1950, Title 3, Section 3:413.

B. Product mislabeled shall have a Stop Sale placed on it until it is properly labeled, as determined by an employee of the state Poultry and Egg Division.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405 and R.S. 3:413.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended LR 19: (September 1993).

§1545. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, repealed LR 19: (September 1993).

§1547. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, repealed LR 19: (September 1993).

§1549. Authority to Enter Premises

Employees or agents of the Louisiana Department of Agriculture and Forestry are authorized to enter any store, vehicle, market, restaurant, state institution, school, nursing home, or any other business or place where eggs or poultry are bought, stored, sold, offered for sale or processed, or served as food to the public, and to make such inspections as needed of eggs to determine if the grades of such eggs conform to grades as labeled on the exterior of the container. If such inspection determines that the eggs in the container do not conform to the grade as labeled on the exterior of the container, the Louisiana Department of Agriculture and Forestry employees or agents are authorized to examine the invoices and such other records needed to determine the cause and place of the violation of the regulation of this Chapter. The said agents or employees shall have the power to stop sale, and impound for evidence, any containers of eggs offered for sale which are in conflict with any provisions of this act. The party having possession of the eggs has the right to ask for an appeal grading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19: (September 1993).

Bob Odom
Commissioner

RULE

**Department of Economic Development
Licensing Board for Contractors**

Rule Revisions
(LAC 46:XXIX.Chapters 1, 3, 5, 7, 9, 11 and 13)

The State Licensing Board for Contractors has amended the following rules:

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXIX. Contractors

Chapter 1. General Provisions

§101. Contractor's Record Keeping

A. . . .

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of

Commerce, Licensing Board for Contractors November 1974, amended LR 8:135 (March 1982), LR 12:761 (November 1986), amended Department of Economic Development, State Licensing Board for Contractors, LR 16:601 (July 1990), LR 19: (September 1993).

§103. Disassociation of a Qualifying Party

A. When the qualifying party terminates employment with the licensee, the State Licensing Board for Contractors must be notified in writing, by the licensee, within 30 days of the disassociation and another party must qualify within 60 days of the disassociation or licensee will be subject to citation for suspension or revocation of license.

B. Failure to notify the board of the disassociation of a qualifying party constitutes a violation pursuant to R.S. 37:2158.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§107. Enforcement of Act and Rules

The board, pursuant to R.S. 37:2158 and R.S. 37:2161 may bring suit to enjoin violations of this Act and the executive director and/or his designated agent and/or the legal counsel for the board is hereby authorized to institute such suit on behalf of the board and to sign the verification of the petition for injunction and to do all things necessary in connection with the institution of such legal proceedings when so directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§109. Name

All contractors shall bid and perform work in the name which appears on the official records of the State Licensing Board for Contractors for the current license. If a licensed contractor assigns a contract, or any portion of a contract, in the amount of \$50,000 or more to another contractor, the person or firm to which it is assigned, and who performs the work must possess the proper current license. No unlicensed contractor shall be permitted to assign a contract, or any portion of a contract, in the amount of \$50,000 or more to a licensed contractor in circumvention of the laws of the state of Louisiana. Any contractor relying on an exemption when bidding shall state such exemption pursuant to R.S. 37:2163(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§115. Bankruptcy

A. - B. ...

C. If any contractor is ordered by a competent court to pay a final and executory judgement awarded against him in the operation of his business, for charges for labor, material, breach of contract, etc., and fails to pay said judgement immediately upon its becoming final and executory, a hearing may be scheduled by the board for the purpose of disciplining the licensee in accordance with R.S. 37:2150, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§117. Major Classification

Any contractor possessing a major classification is permitted to bid or perform any of the specialty type work listed under their respective major classification in R.S. 37:2156.2 or any other work that might not be listed which is directly related to the major classification he may hold as long as it is not prohibited by any rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors LR 11:341 (April 1985), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§119. Notice

Proper notification under R.S. 37:2162(G), shall be five days notice. Notification shall constitute placing of said notice in the U.S. Mail certified. The five days notice shall commence to run on the date of the issuance of notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

Chapter 3. License

§305. Repealed

§311. Reciprocity

Any applicant applying for a license who desires that any portion of the law regarding time limitations be waived shall cause the State Licensing Board of his domiciliary state to certify in writing that such board shall grant a Louisiana domiciliary that same waiver of such laws in that state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 16:602 (July 1990), amended LR 19: (September 1993).

§313. Financial

Repealed

§315. License Revocation and Suspension

Any person, firm or corporation duly licensed under the provision of R.S. 37:2150, et seq. who violates any provisions of the said Louisiana Contractors Licensing Law or any rule or regulation of the board may, after due and proper hearing, have its license suspended or revoked by this board. Prior to the board's action on suspension or revocation of licenses as aforesaid, the licensee shall be given a hearing in accordance

with the Louisiana Code of Civil Procedure. unless there are provisions in Title 37 or the Louisiana Administrative Procedure Act to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors LR 8:138 (March 1982); amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§319. License to Demolish or Wreck

Repealed

Chapter 5. Examination

§501. Qualifying Party

A. Any licensed contractor may have more than one qualifying party. Nothing in the law is to be construed so as to prohibit a licensee from having more than one qualifying party per trade.

B. If a qualifying party for particular trade discontinues employment with a licensee, the licensee will still have a valid license and can still bid on jobs in that trade classification, but the licensee must have a qualifying party before commencing work on a new job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§503. Authorized to Take Examination

The qualifying party or parties authorized to take the examination are:

A. Any individual contractor, co-partner or any corporate officer who was an organizer in the articles of incorporation, provided no person shall be allowed to be the qualifying party for more than one company and two subsidiaries. If more than two subsidiaries are formed or acquired by a parent company, a separate qualifying party shall be registered with the board for each two additional subsidiary companies. Under no circumstances may an individual be the qualifying party for more than three entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§505. Additional Classifications

A. - 1. ...

2. A completed and notarized qualifying party application form is submitted pursuant to R.S. 37:2156.1(D)(1).

3. The required additional fees are paid and the qualifying party successfully passes the examination.

4. Additions or changes to an existing license shall become effective after completion of the above requirements and upon board approval at the next regularly scheduled board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), LR 11:341 (April 1985), LR 12:760 (February 1986), amended Department of Economic Development, State Licensing Board for Contractors, LR 16:602 (July 1990), LR 19: (September 1993).

§507. Applicants

A. Except as otherwise provided by law, all initial applicants shall be required to take and successfully pass the business and law portion of the board's examination and the trade portion where there exists a written or oral examination for same.

B. The qualifying party shall submit his application, with all supporting documentation, for approval at least 10 days prior to taking the examination. The qualifying party shall list all prior affiliations with a licensed contractor(s) and shall disclose whether or not any sanctions have been levied against such contractor(s). The qualifying party shall also state his and/or the contractor's involvement in such sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 16:602 (July 1990), LR 19: (September 1993).

§509. Exemption from Examination

A. ...

B. A licensed firm making application for a subsidiary license for the same classification(s) as those in which the licensed firm has qualified may be exempt from taking of an examination, provided that the qualifying party on record with the State Licensing Board for Contractors for the licensed firm making application for a subsidiary license is the same as that of the parent company, and further provided that no person shall be allowed to be the qualifying party for more than one company and two subsidiaries. If more than two subsidiaries are formed or acquired by a parent company, a separate qualifying party shall be registered with the board for each two additional subsidiary companies. It is further provided that any subsidiaries qualifying under the terms of this Section shall not be permitted to assume the position of a parent company or firm for the purpose of forming additional subsidiaries, if such reorganization results in there being a single qualifying party for more than one parent company and two additional subsidiary companies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 16:602 (July 1990), LR 19: (September 1993).

Chapter 7. Hearing; Meetings

§701. Hearings

A. Hearings may be conducted by the board's legal counsel at regular or special meetings whenever deemed necessary and special hearing officers may be hired at the board's discretion. Hearings shall be conducted in accordance with

the Code of Civil Procedure, unless there are provisions to the contrary in Title 37 or the Administrative Procedure Act.

B. Written notice by certified mail shall be given to all parties at least five days prior to such hearings or special meetings. The board members shall be notified at least three days prior to such hearings or special meetings. The notice shall include the time, place and purpose of the hearing or special meeting and may be held at any place within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 4:69 (March 1978), LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§703. Special Meetings

Repealed

Chapter 9. Subcontractors

§903. Subcontractor License; Default

A. It shall be unlawful and illegal for any general contractor, contractor, owner, awarding authority, subcontractor, or any other person to contract or subcontract all or any portion of work involved herein, to any other contractor, or subcontractor unless said contractor or subcontractor was duly licensed by the board as of the final date fixed for the submission of bids on said work from the primary contractor to the owner or awarding authority. This rule shall be subject to the provisions and limitations established by R.S. 37:2156(B) and (D).

B. If work is subcontracted as per this rule, and the subcontractor should default for any reason, the awarding authority shall have the right to take bids from any subcontractor that is properly licensed at the time of this default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

Chapter 11. Bidding

§1101. Violations

Repealed

§1105. License Number

Repealed

§1107. Federal Projects

A.1 Repealed

A license shall not be required to bid on any projects funded in part by the federal government designated for a particular project by an agency of the federal government where a federal regulation or law prohibits such requirement, provided said agency presents specific evidence of a federal regulation or law prohibiting same in the bid documents. Should the agency fail to present such evidence, the bidder shall be required to have a license before bidding. Any successful bidder on any exempt project funded in part by the federal government shall submit an application for license completed in its entirety and pay the fee prior to commencement of work on federal jobs. After meeting said requirements, a letter shall be issued to said successful bidder authorizing the

commencement of work. Thereafter, the application shall be presented to the board at its next regular meeting and following compliance with all remaining requirements including delay periods, a license shall be issued.

B. 1. - 2. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), LR 12:761 (February 1987), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

§1111. Failure to Insure or Bond

Whenever a licensed contractor bids a project within the scope of this Act, and is awarded the contract, is unable or refuses to provide bonding and insurance coverage as required by the proposal bid for the execution of the project, the awarding authority or owner may file a complaint with the board. The board shall investigate such complaint and if after due hearing, may discipline the licensee in accordance with R.S. 2150, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

Chapter 13. Fees

§1301. Fee for Licenses

The annual fee for licenses for the following year shall be set by the board at its July meeting each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 2:271 (September 1967), LR 8:136 (March 1982), LR 10:199 (March 1984), LR 11:341 (April 1985), LR 12:761 (February 1986), amended Department of Economic Development, State Licensing Board for Contractors, LR 19: (September 1993).

J. Warren Landry
Executive Director

RULE

Department of Economic Development Real Estate Commission

Agency Disclosure (LAC 46:LXVII.3401-3411)

Under the authority of the Real Estate License Law, R.S. 37:1431, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Real Estate Commission has amended the following rules and regulations pertaining to agency disclosure.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXVII. Real Estate

Chapter 34. Agency Disclosure

§3401. Definitions

In addition to the definitions established by §1431 of the Louisiana Real Estate License Law:

* * *

Buyer's Agent—a licensee who pursuant to a written buyer brokerage agreement alone, or as a subagent of a buyer's agent, finds and obtains a seller for real property.

Disclosed dual agent—a licensee who represents both the buyer and the seller in a real estate transaction with the prior knowledge and written consent of all parties.

Disclosed dual agency—an agency relationship in which the brokerage firm represents both buyer and seller in a real estate transaction with the prior knowledge and written consent of all parties.

* * *

Selling agent—a listing agent who acts alone, or a subagent, or a buyer's agent, who sells or finds and obtains a buyer for real property.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19: (September 1993).

§3403. Listing Agency Disclosure

Listing agreements for the sale or lease of real estate shall incorporate the following disclosure statement.

"Absent a written agreement to the contrary, a real estate agent is the agent or subagent of the seller/lessor under Louisiana law. As such, the listing agent acts as the agent for the seller. As such, the seller's agent owes a fiduciary duty of utmost care and loyalty to the seller, and may not disclose to a buyer information about what price or terms the seller will accept other than the price or terms listed. A seller's agent does owe a duty of fair dealing to a buyer, and a duty under Louisiana law to disclose the existence of any known material defects in the property."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19: (September 1993).

§3405. Disclosure Regarding Real Estate Agency Relationships

A. Real estate licensees shall utilize the "Disclosure Regarding Real Estate Agency Relationship" form (Appendix 1) in all real estate transactions involving the sale or lease of real property.

B. In the event there is a change in the agency relationship between a licensee and a prospective seller/lessor or a prospective buyer/lessee subsequent to disclosure having been made in accordance with this Chapter, the licensee shall

execute a new Disclosure Regarding Real Estate Agency Relationship form to reflect the change in the agency relationship between the parties with respect to the proposed real estate transaction.

C. The licensee shall retain a copy of each form signed by a seller/lessor and/or a buyer/lessee or its representative in order to demonstrate compliance with this Section.

D. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the disclosure form the licensee shall complete the form as required and attach a written declaration citing the reasons given by the seller/lessor or buyer/lessee for not signing the disclosure form.

E. This chapter does not apply to residential leases of one year or less where no purchase of real estate is contemplated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19: (September 1993).

§3407. Seller/Lessor Agency Disclosure

A. A real estate licensee dealing face to face with a prospective buyer/lessee shall provide the prospective buyer/lessee or its representative with a copy of the Disclosure Regarding Real Estate Agency Relationship form (Appendix 1) with the "Disclosure to Buyer/Lessee" completed and signed by the licensee before the time the first of the following events occur:

1. discussing any position the prospective buyer/lessee may wish to take in negotiating a contract to purchase, rent or lease a specific property, such as the amount of terms to be offered; provided, however, that a real estate licensee may qualify a prospective buyer/lessee to a price range or generally discuss prices and financing prior to making disclosure in accordance with this Section;

2. preparing a written offer to purchase, rent, or lease real property.

B. This Section does not apply to:

1. a real estate licensee who enters into a written agreement to represent a prospective buyer/lessee prior to the occurrence of either of the events cited in §3407.A. 1. and 2., above; or

2. to a real estate licensee acting as a principal and not as an agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19: (September 1993).

§3409. Buyer/Lessee Agency Disclosure

A. Unlisted Property

1. A real estate licensee representing a prospective buyer/lessee under a written buyer brokerage agreement involving real estate not listed for sale or lease with a licensed broker shall disclose to a prospective seller/lessor the licensee's agency relationship with the prospective buyer/lessee at the first contact regarding the transaction.

2. The licensee shall provide the prospective seller/lessor with a copy of the Disclosure Regarding Real Estate Agency Relationship form (Appendix 1) with the "Disclosure to Seller/Lessor" completed and signed by the licensee before

discussing any position the prospective seller/lessor may take in negotiating a contract to purchase, rent, or lease the property.

B. Listed Property

1. A real estate licensee representing a prospective buyer/lessee under a written buyer brokerage agreement involving real estate listed for sale or lease with a licensed broker shall disclose to the listing broker or his representative the licensee's agency relationship with the prospective buyer/lessee at the first contact regarding the transaction.

2. The listing broker or his representative shall provide the prospective seller/lessor with a copy of the Disclosure Regarding Real Estate Agency Relationship form (Appendix 1) with the "Disclosure to Seller/Lessor" completed and signed by the listing broker or his representative prior to discussing any position the seller/lessor may take in negotiating a contract to sell, rent, or lease the listed property or presenting a written offer to purchase, rent, or lease the listed property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19: (September 1993).

§3411. Dual Agent/Agency Disclosure

A. A dual agent/agency relationship is established when a listing broker or his sponsored licensee executes a written buyer brokerage agreement with a prospective buyer/lessee which will result in any mention or discussions concerning real estate listed by an owner as being for sale or lease with a listing broker or with the listing broker's firm by a licensee sponsored by the licensed broker.

B. A listing broker or his sponsored licensee representing both a prospective seller/lessor and a prospective buyer/lessee in a proposed real estate transaction shall disclose to both the seller/lessor and the buyer/lessee the licensee's dual agent/agency relationship and obtain the written consent of both the prospective seller/lessor and the prospective buyer/lessee to the dual representation.

C. The listing broker or his sponsored licensee shall provide both the prospective seller/lessor and the prospective buyer/lessee with a copy of the Disclosure Regarding Real Estate Agency Relationship form (Appendix 1) with the "Disclosure to and Consent of Buyer/Lessee and Seller/Lessor to Dual Agent/Agency" signed by the licensee, the prospective seller/lessor and the prospective buyer/lessee prior to any discussion concerning the listed property with either the prospective seller/lessor or the prospective buyer/lessee or preparing a written offer to purchase, rent, or lease the listed property.

Note: The "Disclosure Regarding Real Estate Agency Relationship" form (Appendix 1) can be obtained from the Louisiana Real Estate Commission, Baton Rouge, LA. This form replaces all previous agency disclosure forms prescribed and promulgated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:26 (January 1992), amended LR 19: (September 1993).

J.C. Willie
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1882—Administrative Leadership Academy Guidelines and Bulletin 746—Louisiana Standards for State Certification of School Personnel

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has adopted the following amendments to Bulletin 1882, Administrative Leadership Academy Guidelines, and Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Bulletin 1882

Add to the section that addresses academy credit—credit requests:

1. If the activity involves two or more sessions over a period of several days, weeks and/or months and focuses on a single theme, it may be approved for credit.

2. The request must be submitted no later than six months after the completion of the activity (effective July 1, 1993). Academy credit for training activities completed prior to July 1, 1993, must be requested no later than January 1, 1994.

Revise the section on training:

1. replace the term LEAD with "principal internship";
2. delete the section on the Louisiana Principal Assessment Center (LPAC).

Bulletin 746

Under certification requirements for elementary school principals listed on pages 62 and 63, under "F" on page 63, amend to read:

F. Persons who have met the requirements of Items A through E-2 above are eligible for a provisional elementary school principal endorsement. Upon employment as a principal or assistant principal, an individual with a provisional principal endorsement must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy.

Under certification requirements for secondary school principal listed on pages 64 and 65, under "F" on page 65, amend to read:

F. Persons who have met the requirements of Items A through E-2 above are eligible for a provisional secondary school principal endorsement. Upon employment as a principal or assistant principal, an individual with a provisional principal endorsement must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

**Bulletin 1573—Complaint Management Procedures
(LAC 28:I.909)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Elementary and Secondary Education has adopted revised Bulletin 1573, Complaint Management Procedures. Bulletin 1573 is referenced in LAC Title 28 as noted below:

Title 28

EDUCATION

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

* * *

B. Bulletin 1573

1. Bulletin 1573, Complaint Management Procedures (1993) is adopted as revised.

2. This bulletin contains procedures, rules, and regulations controlling public complaints about the delivery of special education services. Complaint criteria and complaint categories are defined and described; procedures for the filing, the investigation, and the resolution of complaints are given. Confidentiality, privacy rights, enforcement, and due process are assured. Intimidation and coercion are prohibited. Administrative tools such as forms and form letters are included.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

**Bulletin 1922—Special Education Monitoring
Procedures Guide (LAC 28:I.909)**

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 has adopted Bulletin 1922, Louisiana Special Education Monitoring Procedures Guide, Revised 1993. This bulletin will be referenced in LAC Title 28 as noted below:

Title 28

EDUCATION

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

* * *

F. Bulletin 1922

1. Bulletin 1922, Revised 1993, Compliance Monitoring Procedures is adopted.

2. The Louisiana Department of Education (SDE) has the

responsibility to ensure that each participating agency in the state is in compliance with all applicable federal and state laws, regulations and standards related to the provision of a free and appropriate public education for all exceptional children for whom each is legally responsible. To fulfill this responsibility, the SDE has established procedures which provide ongoing monitoring of policies and procedures, child identification and evaluation, program implementation, and fiscal requirements of participating agencies. These procedures also include a method for taking corrective actions, providing technical assistance and ensuring the provision of appropriate programs.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Home Economics Certification Requirements

In accordance with the R.S.49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has adopted the revised home economics certification requirements in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Home Economics* (Vocational)

A minimum of 42 semester hours distributed as follows:

- 1. Clothing and Textiles _____ 6 semester hours
- 2. Consumer Education
and Management _____ 6 semester hours
- 3. Food and Nutrition _____ 6 semester hours
- 4. Housing, Home Furnishings
and Equipment _____ 3 semester hours
- 5. Human Development and
Relationships _____ 9 semester hours
(including observation and participation in
the nursery school)
- 6. Home Economics Electives — 12 semester hours

* Early Childhood Endorsements

see pages 11-13 (Bulletin 746)

Mandatory for all individuals applying for certification in Home Economics (Vocational) on or after July 1, 1998.

Home Economics (Occupational Programs)

Authorization to teach home economics occupational programs may be added to the certificate of a teacher who is certified in vocational home economics and has completed the following:

- 1. at least three semester hours in organization and administration of home economics occupational programs including cooperative education;
- 2. 2000 hours of successful work experience or a minimum of 120 hours in supervised field practicum in the area of occupational certification.

Home Economics (Food Science)

Authorization to teach home economics food science programs may be added to the certificate of a teacher who is certified in vocational home economics provided that the teacher has:

1. at least six semester hours in college chemistry;
2. at least six semester hours in food science.

Ancillary Home Economics (Occupational Programs)

1. Provisional certification, valid for three years and renewable upon request of employing authority, may be issued to a person who has completed the following:

a. bachelor's degree in a subject area of home economics;

b. at least 12 semester hours in professional education courses to include organization and administration of home economics occupational programs;

c. 2000 hours of successful work experience in the area of occupational certification.

2. Permanent certification, valid for life for continuous service, may be issued upon completion of the requirements for provisional certification and three years of teaching experience in home economics occupational programs.

Carole Wallin
Executive Director

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Honors Scholarship

The Student Financial Assistance Commission, Office of Student Financial Assistance adopts rules regulating the Honors Scholarship Program as follows:

VII. Honors Scholarship Program

A. Program Description, History and Purpose

The Honors Scholarship Program, first awarded in the Fall of 1992, provides tuition exemption to Louisiana residents to acknowledge, honor and reward the academic achievement of Louisiana's top high school graduates, to insure that these students have the financial resources to pursue a higher education in one of Louisiana's colleges and universities and to provide an incentive to these students to seek their higher education in this state.

B. Legislative Authority

Chapter 20-B-3 of Title 17 of the Revised Statutes of 1950, Comprised of R.S. 17:3042:31 through 3042:35, enacted by Act 1085 and amended by Act 13 of the 1992 Regular Legislative Session.

C. Student Participation/Responsibilities

1. Initial Eligibility. To establish initial eligibility, the student must meet all of the following criteria:

a. graduate in the top five percent of the academic year's graduating class from a Louisiana public or state

(BESE) approved nonpublic high school, as identified and certified by the city and parish school board for public high schools and by the principal or headmaster of each nonpublic approved high school; or

b. be enrolled in a state-approved home study program and score in the upper five percent in the state on the National Merit Examination; and

c. be a resident, as defined in Section VIII.A. of this manual; and

d. enroll as a first time full-time undergraduate student in a public or regionally accredited LAICU member independent college or university in the state, within 2 years of high school graduation*;

e. not be receiving other gratuitous financial assistance or support from the college or university attended or from any alumni organization or foundation organized by the alumni or other supportive individual of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner, if the total cost of the student's tuition is provided by the scholarship; and

f. not be receiving other aid (meaning aid which is not *gratuitous financial assistance or support* as defined in Paragraph H of this Chapter) which, together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations. This Paragraph shall not preclude an institution from establishing a maximum limitation on aid based upon some other criteria which would result in a limitation that is less than the student's total cost of attendance; and

g. not be receiving a tuition waiver or award from the state or an institution of higher education including, but not limited to, the Tuition Assistance Plan (TAP), the National Guard Tuition Waiver and the Vocational Rehabilitation Tuition Waiver.

2. Award Notification/Acceptance

a. Respond in writing, as requested, by the deadlines specified.

b. Receive the award certificate and the tuition exemption form at the high school ceremony or reception.

c. Present the tuition exemption form to the college at the time of registration.

3. Renewal Eligibility. Continuing eligibility is contingent upon the recipient meeting the following requirements:

a. continue to attend a Louisiana public or independent college or university as a full-time undergraduate student for not less than two semesters or three quarters in each academic year unless granted an exception for cause by OSFA;

*A one time exception is granted for scholars named in 1992-93 who were not notified of their eligibility until after Fall, 1992 enrollment. The 1992-93 scholars enrolled at institutions ineligible to participate in the program (whether in or out-of-state) and who subsequently enroll at an eligible institution no later than the Fall Term, 1993, will be eligible to receive the tuition waiver provided that they are in compliance with all other eligibility criteria.

b. maintain by the end of each academic year a cumulative college grade point average of at least a 3.0 on a 4.0 scale. Failure to maintain the required academic grade point average will result in permanent cancellation of the recipient's eligibility;

c. continue to register, maintain and successfully complete not less than 12 hours per semester, eight hours per quarter or six hours per summer session for each term during which a waiver was granted;

d. have previously received tuition waivers for less than 10 semesters (or 15 quarters), including summer sessions and less than seven years have elapsed since the month following the date of high school graduation;

e. eligible students, at their option, may have tuition waived for attendance during a summer session; however, if tuition is waived for a summer session it shall be counted as a full semester or quarter towards the tuition waiver limitation of 10 semesters or fifteen quarters. Students may elect to enroll part or full-time during a summer session and not accept the tuition waiver for that term, in which case the summer session would not be counted as a semester or quarter against the tuition waiver limitation;

f. be in compliance with the terms of other federal and state aid programs which the scholar may be in receipt of and which are administered by the Student Financial Assistance Commission;

g. not be receiving *gratuitous financial assistance or support* as defined in Paragraph H of this Chapter, if the total cost of the student's tuition is provided by the Honors Scholarship;

h. not be receiving other aid (meaning aid that is not *gratuitous financial assistance or support* as defined in Paragraph H of this Chapter) which, together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations. This Paragraph shall not preclude an institution from establishing a maximum limitation on aid based upon some other criteria which would result in a limitation that is less than the student's total cost of attendance; and

i. not be receiving a tuition waiver or award from the state or an institution of higher education including, but not limited to, the Tuition Assistance Plan (TAP), the Louisiana National Guard Tuition Waiver, and the Vocational Rehabilitation Tuition Waiver.

D. High Schools, School Boards, Special School Governing Boards and Louisiana Department of Education Participation/Responsibilities

1. City and Parish School Boards, Special School Governing Boards, Headmasters of BESE Approved Nonpublic High Schools and Louisiana Department of Education Representatives:

a. Each of these authorities shall apply the following guidelines in complying with R.S. 17:3042.33A:

i. consider only the academic grades recorded on the student's official high school transcript in determining class ranking;

ii. the academic courses which are to be considered in determining academic class ranking shall be defined as part

of the written criteria to be adopted by the board or headmaster;

iii. define the procedure by which students who would otherwise have equal academic class ranking may be ranked (tie-breaker procedure). This may include an evaluation of the students' academic grades on a set of pre-determined core academic courses such as English, math and science or an evaluation of the level of difficulty of the courses taken by the students, such as honors courses and higher level math or science courses;

iv. by an affirmative act taken during a public meeting, approve written criteria for determining the academic class ranking of students and the procedure by which the top five percent shall be identified. Such written criteria shall incorporate each of the requirements defined in this Paragraph.

b. In computing the top five percent of each high school's graduating class, apply the following formula:

i. the total number of students who are Louisiana residents receiving a high school diploma from the institution during the academic year preceding the award year, multiplied by the figure .05, and, if not a whole number, rounded up to the next whole number. Foreign exchange students and other nonresidents shall not be counted as members of the graduating class for the purpose of this computation;

ii. EXAMPLE: for a high school that awarded state high school diplomas to two summer graduates, seven midyear graduates and 79 spring graduates during the academic year considered, the following computation would apply:

$$[2 + 7 + 79 = 88 \times .05 = 4.4 \text{ round up to } 5.0]$$

iii. accordingly, five students may be selected for the Honors Scholarship at the high school depicted in the example.

c. Ensure that the approved selection criteria is publicly posted in each high school under the board or headmaster's jurisdiction and provide a copy of the criteria to OSFA.

d. Ensure that amendments to the criteria, as approved by the board/headmaster from time to time, shall only be effective for the years following the year in which amended.

e. Each year, by the deadline specified and on the forms provided by OSFA, city and parish school boards for public high schools, principals or headmasters for approved special schools and nonpublic BESE approved high schools, and Louisiana Department of Education representatives for home study students, shall certify and submit to OSFA the names of students graduating in the top five percent of each high school's academic year graduating class or the names of those students completing an approved home study program who scored in the upper five percent in the state on the National Merit Exam.

f. If the certifying authority (school board, principal, headmaster or State Department of Education representative) elects to notify scholars of their selection, then the following disclaimer Paragraph shall be included in any communication to the scholar:

"Although you have been named a 'Louisiana Honors Scholar', you must satisfy all of the following conditions to redeem a scholarship under this program:

(a). you must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and

(b). you must be accepted by an eligible Louisiana college or university and be registered as a full-time student; and

(c). if the total cost of your tuition is paid by the Honors Scholarship, you must not be receiving any other gratuitous financial assistance or support as certified by the institution's financial aid office.

(d). you must be notified of your award by the Louisiana Office of Student Financial Assistance."

2. Public and Nonpublic High Schools and Louisiana Department of Education Representatives:

- a. receive the notification of selected students and the award certificates produced by OSFA;
- b. recognize recipients at an award ceremony or school reception as provided by R.S. 17:177;
- c. invite members of the legislature representing the school's district to attend the ceremony or reception, endorse the certificates and make the presentation awarding such.

E. College/University Participation/Responsibilities

Colleges and universities eligible to participate in the Louisiana Honors Scholarship Program are Louisiana public and independent (regionally accredited member institutions of LAICU) colleges and universities. Participating institutions shall:

- a. receive OSFA notification of student's eligibility determination;
- b. respond to OSFA communications as requested, including but not limited to, the following:
 - i. certify full-time enrollment status each semester or quarter;
 - ii. supply certification of continuing eligibility, including the following, to be supplied at the completion of each academic year (ending after each spring semester/quarter):

(a). total number of hours earned during the specific academic year (including summer sessions);

(b). Cumulative hours earned (including prior academic years and summer sessions);

(c). cumulative GPA, including all grade credits earned to date;

(d). actual date of graduation;

iii. notify OSFA immediately if applicant fails to enroll or withdraws from school or drops to less than full-time attendance;

iv. notify OSFA of any irregularities discovered by the institution which may affect student eligibility status;

v. maintain adequate records to verify compliance with LASFAC rules;

c. follow LASFAC billing procedures, as follows:

i. institutions may bill LASFAC only for students certified eligible by OSFA;

ii. institutions will bill LASFAC based on their certification of new students' first time, full-time enrollment and renewal students' full-time enrollment as of the fourteenth class day (ninth class day for Louisiana Tech). Institutions are not to bill for students who are enrolled less than full-time on the fourteenth class day, nor for renewal students who did not maintain full-time attendance for the immediately preceding term of enrollment. Students failing to meet the full-time enrollment criteria are responsible for reimbursing the institutions for any monies owed. Refunds for less than full-time enrollment after the fourteenth class day are to be retained by the institution;

iii. institutions will not bill LASFAC for any awardee who has elected to accept another form of tuition waiver;

iv. if the total cost of the student's tuition is provided by the Honors Scholarship, the student shall not be receiving nor shall an institution award any other gratuitous financial assistance or support from the college or university attended or from any alumni organization or from a foundation organized by the alumni or other supportive individuals of the college or university attended whose charter specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner;

v. annually, institutions must provide OSFA a current fee schedule for Louisiana Honors Scholarship Program billing purposes. The schedule must indicate the total cost of tuition, which shall not include any fees charged by the college or university that are in addition to the basic course enrollment charges. Independent institutions must bill LASFAC for the amount equal to the highest tuition charged at a Louisiana public college or university or the actual tuition of the independent institution, whichever is less. An itemized description of the composition of the mandatory fees listed on the fee schedule must also be supplied;

vi. to prevent the student's total financial assistance awards (meaning the total of all awards which are not *gratuitous financial assistance or support* as defined in Paragraph H of this Chapter) from exceeding the institution's cost of attendance or some other limitation established by the institution which may be less than the cost of attendance, the institution may reduce the amount of tuition to be paid by the Honors Award and subsequently billed to OSFA;

vii. upon the school's certification, OSFA will reimburse the institution for each scholarship recipient up to the maximum amount listed on the approved fee schedule.

F. Louisiana State Legislators Participation/Responsibilities

1. Receive OSFA's notification that constituents have been selected for award of the Honors Scholarship.

2. Receive invitations from high schools in their respective districts and attend ceremonies for the purpose of endorsing the Louisiana Honors Scholarship award certificate and presenting the certificate to the recipient.

G. OSFA Participation/Responsibilities

1. Budget Forecasting:

a. determine the amount of funding required for continuation of the program by estimating the total new and continuing tuition exemptions expected to be awarded;

b. submit recommended budget;

c. receive notification of appropriation upon enactment.

2. Certification Processing:

a. forward blank certification forms and instructions to Louisiana public and approved nonpublic high schools and the Louisiana Department of Education;

b. receive, review and approve the completed high school certification listings of selectees.

3. Renewal Eligibility/Ineligibility Determination:

a. annually, at the close of each academic year, determine the recipient's current status and continuing eligibility;

b. notify recipients of their status and any actions needed.

4. Award Determination:

a. forward award notification to new and renewal recipients;

b. generate award listings and forward to high schools, college and university financial aid offices and to legislators.

c. maintain correspondence with colleges and universities to confirm initial and continuing eligibility of students for the Louisiana Honors Scholarship.

5. Reimburse the tuition waived by colleges and universities:

a. review and approve for reimbursement the school's current schedule of fees;

b. mail Honors Scholarship billing packets to schools;

c. verify and reconcile the school's Honors Scholarship billing invoice;

d. resolve and correct discrepancies, if applicable;

e. mail payment acknowledgement and check to school.

H. Definitions Applicable to this Chapter

Academic Year—for purposes of the Louisiana Honors Scholarship Program, the annual academic year for both college and high school begins with the summer session, includes the fall and winter terms and ends at the conclusion of the spring term, in that order. For example, for a high school graduate to be considered for award of the scholarship to attend college in the 1992 fall term, he/she must have graduated from high school during the summer term 1991 (usually June or July), mid-term 1991 (usually December), or the spring term 1992 (usually May or June). This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Bulletin 741.

Basic Course Enrollment Charges—those institutional tuition and mandatory fees charged all full-time students for purposes of enrollment.

BESE Approved Nonpublic High School—as defined in the Louisiana School Directory (Bulletin 1462), an approved nonpublic school meets the standards specified in The Louisiana Handbook for School Administrators (Bulletin 741). For the purposes of this Chapter, approved nonpublic schools may include private or diocesan high schools classified annually by the Department of Education as approved, provisionally approved or probationally approved.

Graduate—for the purposes of this Chapter, a high school graduate is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a Louisiana public or BESE approved nonpublic high school.

Gratuitous Financial Assistance or Support—

a. this definition shall be applicable to all students certified as Honors Scholars on or after May 11, 1993 (the date the emergency rule becomes effective);

b. as cited in R.S. 17:3042.34A(4), *gratuitous financial assistance or support* means the granting of money or the provision of services to a student without requiring from the student repayment or recompense in the form of work or otherwise, by the college or university the student attends from resources available to the college or university for distribution

at the institution's discretion or from resources available to an alumni organization or foundation whose purpose is to aid said college or university in a philanthropic manner. *Gratuitous financial assistance or support* does not include:

i. state or federally administered financial assistance programs including, but not limited to, the following: Federal Family Education Loan Program (FFELP), Federal Direct Loan (Demonstration Program), Federal Perkins Loan, Federal Pell Grant, Federal Work Study (FWS), Federal Supplemental Education Opportunity Grant (FSEOG), State Student Incentive Grant (SSIG), Federal Paul Douglas Teacher Scholarship, T. H. Harris Scholarship, Rockefeller Scholarship, Education Majors Scholarship, Byrd Scholarship; and

ii. any state or federal program enacted to supplant or supplement those listed in Subclause "i." above, unless otherwise provided for by these regulations; and

iii. scholarships, grants or loans that are awarded by a business, religious, honorary or civic organization whose purpose is not the philanthropic support of an institution; and

iv. aid provided by a LAICU member private institution in the amount of the difference between the Honors Scholarship Award and the cost of tuition and mandatory enrollment fees at that institution.

LAICU Member Institution—a private college or university which is a member of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU). As of June 1992, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of Holy Cross College, Tulane University, and Xavier University.

Jack L. Guinn
Executive Director

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

LEO Alternative Credit Report

The Student Financial Assistance Commission announces the amendment of the Louisiana Employment Opportunity (LEO) Loan Program Policy and Procedure Manual to provide an alternate procedure for the processing of credit reports and report fees. Manual sections will be revised as follows:

2.3 The student trainee shall:

A. - B. ...

1. Credit report fee to the guarantor or to the employer as provided in the agreement between the employer and LASFAC.

2. ...

3. The total fees charged shall never exceed 12 percent of the amount loaned.

* * *

3.1.3 Employer's Certification for Guarantee

RULE

- A. ...
- B. If authorized by agreement with LASFAC, the employer shall procure a credit report on an applicant and, if applicable, a report for a cosigner, from the credit reporting agency designated by LASFAC. The credit report shall be used by the employer to prescreen the applicant and, for applicants that appear to meet the creditworthiness standards, forward the report/s to LASFAC for its action.
- C. The employer shall ...
1. - 4. ...
- D. The employer shall then promptly certify ...

* * *

3.2.4 How Lender Handles the Refund of the Credit Report and Guarantee Fees

- A. ...
- B. To refund the guarantee fee, the lender shall credit the credit report and guarantee fees to the borrower's LEO account:
1. If the lender paid the guarantee and credit report fees to LASFAC, seek the return of the guarantee fee by completing column "8" and the return of the credit report fee by amending column "6" of the "Request for Insurance Premium Refund" form (LASFAC Form 6) to indicate amount of fee along with the amount canceled. Refund of fees will only be processed on loans which are fully canceled prior to 120 days after guarantee.
2. If the lender paid the guarantee fee to LASFAC, and the cost of the credit report fee to the employer, seek the return of the guarantee fee as indicated in 3.2.4 B 1 and bill the employer for return of the credit report fee.
- C. Credit report and guarantee fees paid to LASFAC on loans that are canceled on LASFAC's system more than 120 days after the certified date of disbursement shall be retained by the agency. Credit report fees paid to the employer on loans canceled more than 120 days after the certified date of disbursement shall be returned to the lender by the employer. Claims will not be accepted for fees only.

* * *

4.1.5 Employer Calculation and Distribution of Refund

- A. ...
- B. Guarantee fees and credit report fees paid to LASFAC on loans that are canceled more than 120 days after the actual date of disbursement shall be retained. Credit report fees paid to the employer must be refunded to the lender for application to the borrower's account.

* * *

4.2.1 How Lender Handles Refund of Fees

- A. - B. ...
1. Seek return of fees in accordance with 3.2.4 B.
2. Credit the fees to the borrower's LEO account.

* * *

Jack L. Guinn
Executive Director

Student Financial Assistance Commission Office of Student Financial Assistance

Loan Cancellation with Fee Outstanding

The Student Financial Assistance Commission, Office of Student Financial Assistance, announces the amendment of the *Loan Program Policy and Procedure Manual* to provide for a standard procedure to cancel a loan or disbursement when a fee has not been paid.

Paragraphs A and B of Section 6.2.14 shall be amended as follows:

- A. To cancel a loan or disbursement, when the fee is paid:
1. obtain Loan Cancellation Request form (LASFAC 6);
 2. enter name and code of lender;
 3. enter borrower's name and social security number in appropriate location; include loan number, if known;
 4. enter:
 - a. scheduled dates of disbursement;
 - b. amount of disbursement to be canceled, and
 - c. reason for cancellation;
 - d. total amount of all disbursements being canceled.

Note: If you are only canceling one disbursement, one entry is needed. If you are canceling an entire loan, you must complete all scheduled disbursement dates. Be certain that the disbursements are equal to the guarantee amount, and all disbursements are listed.

5. Complete Signature, Title and Date, inserting legible name and title of authorizing official. Careful review is suggested before signing, to ensure that the proper cancellation is being processed. Once the cancellation form is processed by LASFAC, the loan guarantee is canceled. Once a lender has instructed that a loan or disbursement be canceled, a reinstatement request and fee will be required to restore the disbursement or loan to the system.

B. To cancel an entire loan or entire disbursement from the Lender Insurance Premium Invoice when the fee is outstanding:

1. identify name, social security number, loan and disbursement number on Lender Insurance Premium Invoice;
2. check appropriate column to indicate whether the entire disbursement or entire loan is to be canceled;
3. place amount of disbursement/s or loan/s to be canceled in "Comment" column;
4. total all amounts canceled and indicate total at bottom of "Comments" column on each page;
5. initial the column on each page where totals of cancellations are indicated.

C. ...

Jack L. Guinn
Executive Director

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

State Student Incentive Grant Program (SSIG)

The Student Financial Assistance Commission, Office of Student Financial Assistance, amends the *Scholarship and Grant Policy and Procedure Manual* to include regulations for the State Student Incentive Grant Program (SSIG). The current Chapter VIII will become Chapter IX and Chapter VIII will read as follows:

VIII. State Student Incentive Grant Program (SSIG)

A. Program Description, History, and Purpose

The Louisiana State Student Incentive Grant Program (SSIG) provides need-based grants to academically qualified students using federal and state funds. These grants are to be used for educational expenses including tuition and fees, books and supplies, and living expenses, such as room, board and transportation.

Louisiana administers a decentralized SSIG Program. The Louisiana Student Financial Assistance Commission (LASFAC), Office of Student Financial Assistance (OSFA), the state agency designated to administer SSIG, delegates certain functions to participating schools. Schools approved for participation in the Louisiana SSIG program must have federal eligibility and must annually submit application and be approved for state participation. Participating schools include Louisiana colleges and universities, state technical institutes and proprietary schools.

Funding available for a specific award year is allocated to eligible schools on the basis of enrollment or need formulae. The schools process and certify eligibility of SSIG recipients and OSFA approves or denies awards and forwards individual checks to the schools to disburse to the students.

Each year approximately 3,000 students receive SSIG funds totaling \$2,000,000, with the average award being \$700. Individual grants range from an annual minimum of \$200 to a maximum of \$2,000; however, the actual amount of each student's award is determined by the financial aid office at the school and is governed by the number of recipients selected and the amount of funds available. SSIG awards are based upon a full academic year beginning with the fall term.

Background

Louisiana Act 632 of 1974 empowered the Louisiana Higher Education Assistance Commission (LHEAC), later renamed the Governor's Special Commission on Education Services (GSCES) and the Louisiana Student Financial Assistance Commission (LASFAC), to administer SSIG and to prescribe appropriate rules and regulations. Therefore, the first year implementation of the SSIG Program in Louisiana occurred for academic year 1975-76 with \$279,528 of federal funds available for Louisiana to match, resulting in a first year program budget of \$559,056. The state and federal funds provided average grants of \$329 to 1,414 students attending 27 Louisiana colleges and universities.

During the 1976-77 academic year, the state's second year of participation in the SSIG program, Louisiana was allocated \$617,865, but was only able to match \$279,528. The remaining \$338,337 of federal funds was reallocated to other eligible states.

For academic year 1977-78, Louisiana was allocated \$864,715 but was only able to commit \$300,000 of state general funds for the SSIG matching budget. However, in accordance with federal regulation, LHEAC sought and received \$30,622 in funding from individual schools to increase the state's contribution, giving the Louisiana SSIG Program a total funding level of \$661,244. Accordingly, Louisiana released \$534,093 of federal funds to be reallocated to other eligible states.

Academic year 1987-88 was the last year Louisiana was authorized to utilize institutional monies to match a portion of its federal allotment. Beginning with the 1988-89 academic year, all state matching funds had to be supplied by the state from direct state appropriations.

Allocation of Funds

Annually, funds are allocated to schools based on school type, the school's prior year first time, full-time enrollment and the amount of the prior year's allocation that was expended.

When SSIG was first implemented during 1975-76, there were two types of SSIG award funds that participating schools could receive, initial funds for students who were first time recipients and continuation funds for students who had previously received SSIG. Initial funds, for first time recipients, were computed as a percentage of all school's first time, full-time enrollment as of October 10 of the prior fiscal year. Continuation funds for students who had previously received SSIG at the colleges and universities were computed as a percentage of the allocated funds used during the previous year. During the first year of implementation and through academic year 1980-81, the commission used a 65 percent continuation formula. This method continued through the 1980-81 academic year until the continuation formula was revised to 60 percent for four year schools and 40 percent for two year schools.

On the state SSIG participation agreement colleges and universities submit the number of enrolled first time, full-time students for the fall term prior to the award year.

Vocational technical and proprietary schools provide their first time, full-time enrollment as of October 10 of the previous year, for students who are enrolled for at least nine months or 900 clock hour study courses.

Unused SSIG institutional funds are reallocated to schools which completely use their original allotment of SSIG funds by the appropriate deadline (November 1 - colleges and universities, January 1 - proprietary and vocational schools). Reallocation schedules are developed utilizing the same method that is used for initial funding.

Certification

Schools are responsible for certifying the student's academic and financial eligibility and the amount of the student's award. The student's social security number, name, address, income level, expected family contribution (EFC) and

SSIG award amount are reported to OSFA on SSIG recipient rosters.

B. Legislative Authority

Federal

The statutory authority for the SSIG Program is found in Title IV of the Higher Education ACT of 1965, 34 CFR Part 692, as amended. The Title IV Programs were most recently reauthorized by the Higher Education Amendments of 1992 (Public Law 102-325).

State

The statutory authority for the state of Louisiana's SSIG Program is ACT 632 of 1974. The Program was most recently amended by ACT 228 of 1977, R.S. 17:3023.5.

C. Student Responsibilities

1. **Initial Eligibility.** To establish initial eligibility, the student must meet all of the following criteria:

a. complete and submit the Free Application for Federal Student Aid (FAFSA) by the school's required deadline;

b. be a Louisiana resident as defined by LASFAC;

c. be a U. S. citizen or eligible non-citizen;

d. be enrolled as a full-time undergraduate student in an eligible program at an eligible school;

e. have a high school diploma with at least a 2.00 cumulative grade point average, a minimum average score of 45 on the General Educational Development (GED) Test, an ENACT composite score of at least 20, or a college grade point average of at least 2.00;

f. file with the school a statement of educational purpose, a certification statement on refunds and defaults, a statement of registration status, and a statement of updated information;

g. have substantial financial need;

h. not owe a refund on a Pell Grant, SEOG, SSIG, educational loan, nor owe a repayment on an educational grant or scholarship;

i. be in compliance with the terms of other federal and state aid programs administered by the commission;

j. be selected and certified by the school for receipt of an SSIG award contingent upon final approval by LASFAC.

Additionally, individual institutions participating in the SSIG Program may establish additional selection criteria as long as the commission's minimum requirements are met.

2. **Notification/Acceptance of Awards:**

a. students receive notification of SSIG eligibility and award from the institution attended. (Eligibility and the award amount is certified by the school's financial aid office, contingent upon final approval by LASFAC.);

b. to receive SSIG funds, the student must continue to meet all eligibility standards on the date of check disbursement;

c. the student must acknowledge receipt of the disbursement check by personal signature.

3. **Renewal Eligibility.** Continuing eligibility is contingent upon the student meeting the following requirements:

a. maintain a cumulative postsecondary grade point average of at least a 2.00 calculated on a 4.00 scale by the conclusion of the spring term;

b. enroll full-time as an undergraduate student;

c. have substantial financial need;

d. apply annually for federal aid using the FAFSA;

e. not owe a refund on a Pell Grant, SEOG, SSIG, nor owe a repayment on an educational grant or loan;

f. be in compliance with the terms of other federal and state aid programs administered by the commission;

g. be selected and certified by the school for receipt of an SSIG award, contingent upon final approval by LASFAC;

h. must continue to meet all eligibility standards as of the date of check disbursement.

D. High School Responsibilities

High school counselors are encouraged to make their high school students aware of the program and its eligibility requirements.

E. College/University, State Technical Institute and Proprietary School Responsibilities:

1. meet and maintain federal Title IV eligibility requirements;

2. if the school has never participated in SSIG or if the school's participation was previously terminated and the school desires to resume participation, request an application from OSFA;

3. complete and return the annual SSIG application by the specified deadline;

4. certify that students and parents will not be charged a fee for the collection of information used to determine the student's eligibility for SSIG;

5. certify that students listed on the recipient roster meet federal, state and school specific SSIG eligibility criteria;

6. certify that if the institution's SSIG allotment is based in part on the financial need of independent students, as defined by the U. S. Department of Education, a reasonable portion of the institution's allotment must be made available to independent students;

7. certify that each SSIG recipient's total package of aid does not exceed the student's financial need;

8. certify that SSIG funds recovered from overawards/refunds/repayments during the applicable award period shall be returned to LASFAC to be reissued to other qualified students. Funds recovered from overawards/refunds/repayments after the applicable award period shall be returned to LASFAC for return to the U. S. Department of Education and/or the State of Louisiana. The amount of overaward/refund/repayment shall be determined according to the school's policy established in accordance with federal regulations;

9. complete and return recipient roster and institutional certification forms to ensure expenditure of allotted SSIG awards by the school specific deadline (November 1 - colleges and universities, January 1 - technical institutes and proprietary schools);

10. submit recipient roster changes using the void check form and/or replacement roster;

11. return the duplicate copy of the institutional cover letter which documents the date the school received SSIG checks;

12. evidence that students actually received award checks;
13. release award checks to students within 30 days of receipt of checks from OSFA or return them to OSFA;
14. if a SSIG check is released in error to an ineligible student, recover the award amount from the student and return it to LASFAC;
15. notify OSFA immediately of any irregularities;
16. maintain adequate records to verify compliance with federal, state, and school policies, assuring that all SSIG recipients met all eligibility criteria, received the correct award amount, and provided the appropriate need analysis documentation.

* * *

Glossary:

Academic Year—An academic year begins with the fall term of the award year, includes the winter term, if applicable, and culminates with the completion of the spring term of the award year. The academic year does not include summer sessions.

Cost of Education—The total amount it will cost a student to go to school - usually expressed as an academic year figure. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students); and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a cooperative education program.

Dependent Student—A dependent student is a student who is dependent on his or her parents for support and therefore is required to include parental information on the FAFSA.

Eligible Non-Citizens:

Citizens and Residents of the Pacific Islands—In some cases, citizens of the Marshall Islands and the Federated States of Micronesia (former Trust Territories) will continue to be eligible for aid from three Student Financial Assistance Programs (Pell Grants, SEOG, CWS). Permanent residents of Palau (the only remaining Trust Territory) are eligible for aid from all Student Financial Assistance Programs.

Other Eligible Noncitizens—An individual who can provide documentation from the INS that he or she is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Includes refugees, persons granted asylum, Cuban-Haitian Entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others.

Permanent Resident of the U.S.—A permanent resident of the U.S. must provide documentation from the Immigration and Naturalization Service (INS).

Expected Family Contribution (EFC)—An amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for school. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

First Time, Full-Time Enrollment—A student who, subsequent to high school graduation, enrolls for the first time

(as defined by the institution) as a college student in the fall or spring term of the award year. A student who begins college or university attendance in a summer session will be considered a first-time student for the immediately succeeding fall term.

Full-time Student—A student enrolled in an institution of higher education who is carrying a fulltime academic workload as determined by the school under the standards applicable to all students enrolled. A student is considered to have met the fulltime requirement if by the completion of the spring term he/she has earned at least 24 hours of total credit during the fall, winter, and spring terms at an institution defining 12 semester or 8 quarter hours as the minimum for fulltime undergraduate status. A workload of at least 30 hours per week is the full-time equivalent at a vocational-technical school.

Independent Student—An independent student is a student who meets at least one of the criteria listed below or has been determined independent by a financial aid officer exercising professional judgment:

1. born before January 1, 1970 (this date changes annually);
2. is a veteran of the U. S. Armed Forces (includes students who were activated to serve in Operation Desert Storm);
3. is a ward of the court or both parents are dead;
4. has legal dependents other than a spouse;
5. is a graduate or professional student;
6. is married;

Independent students are required to report on the FAFSA only student information, or if married, student and spouse information and any information on dependent children. An independent student must have resided in the State of Louisiana for at least 12 consecutive months immediately preceding the date of registration for the school term at the institution for which SSIG is sought.

Louisiana Resident—Any person who has resided in the State of Louisiana continuously during the twelve months immediately prior to the date of application and who has manifested intent to remain in this state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

1. if registered to vote, is registered to vote in Louisiana;
2. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
3. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;
4. if earning an income, has complied with state income tax laws and regulations;

Overaward—An overaward occurs when a student received financial aid in excess of financial need.

Refund—A refund of school charges that the school makes to a student, usually after the student has withdrawn from school. The refund to the student is the difference between the amount the student paid towards school charges, minus the amount the school keeps for the portion of the payment period that the student was enrolled.

Repayment—The amount of the cash disbursement that a student must pay back to the school if the student withdraws

from the program. If the cash disbursement was greater than the student's living expenses (students education costs above and beyond the amount of tuition and fees) up to the withdrawal date, the student must repay the excess amount. If the student received SSIG funds, that portion of the refund/repayment must be returned to LASFAC. The actual amount of the refund/repayment is determined according to the school's policy in accordance with federal guidelines.

Substantial Financial Need—Is defined as the difference between the student's cost of attendance and the sum of that student's expected family contribution (EFC) plus other student aid the student is due to receive. The difference thus computed must exceed \$199.

U.S. Citizen or National—The term "national" includes not only all U. S. citizens, but also natives of American Samoa or Swain's Island.

Jack L. Guinn
Executive Director

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Assistance Plan (TAP)

The Student Financial Assistance Commission, Office of Student Financial Assistance announces the amendment of Tuition Assistance Plan policies to comply with statutory changes, as follows:

VI. Louisiana Tuition Assistance Plan (TAP)

A. Program Description, History and Purpose

The Louisiana Tuition Assistance Plan (TAP) Program, formerly referred to as the Louisiana College Tuition Plan and the "Taylor" Plan, which was first awarded in the fall of 1989, provides tuition exemption to Louisiana residents who enroll in public colleges and universities to pursue an academic undergraduate degree and who meet specific academic standards and financial need criteria. The annual award amount for TAP varies, since it is based on the actual tuition charges of individual state institutions.

A cumulative maximum award amount is not established; however, there is a five-year limitation on the number of academic years (10 semesters or 15 quarters) a recipient may receive this entitlement. Institutions, after submitting vouchers to OSFA, are reimbursed each term for the tuition and fees waived for TAP recipients.

B. Legislative Authority

R.S. 17:3026

Act 789 of 1989 Regular Session

Act 1055 of 1990 Regular Session

Act 718 of 1992 Regular Session

C. Student Participation/Responsibilities

1. Initial Eligibility. To establish initial eligibility, the student must meet all of the following criteria:

- a. complete and submit the Free Application for Federal Student Aid (or FAFSA) by April 1 (or the next business day if the first falls on a weekend);
- b. have actually resided in Louisiana during the 24 months preceding college or university enrollment;
- c. have parent(s) or guardian who is a domiciliary of Louisiana;
- d. have graduated from high school within the two years preceding the application;
- e. have no criminal record other than misdemeanor traffic violations;
- f. enroll full time at a Louisiana two-year or four-year public institution of higher education as a first-time, full-time undergraduate student;
- g. be a U.S. Citizen or National and registered with Selective Service, if required;
- h. demonstrate financial need as defined herein:

The family must have an annual adjusted gross income of less than \$25,000, plus \$5,000 for each dependent child other than the applicant. Effective January 1, 1993, the adjusted gross income eligibility limitation shall be annually adjusted for inflation in accordance with the Implicit Deflator for Personal Consumption Expenditure Index, annualized, reported by the United States Department of Commerce, Economic Statistics Administration, Bureau of Economic Analysis. For a dependent applicant, the adjusted gross income of the family shall include the reported income of the parent or parents and any income of the applicant in excess of \$3,999.99. For an independent applicant, the family income shall include all reported income of the applicant and, if married, the spouse's reported income. The term "family" for a dependent applicant means the applicant and the applicant's parent or parents and their other dependent children. The term "family" for an independent applicant means the applicant, and if married, the applicant's spouse and any dependent children. To be classified as independent, a person must be 24 years of age or older by December 31 of the award year, an orphan or ward of the court, a veteran, a married student, a student with dependents other than a spouse, or a student determined independent by a financial aid officer exercising professional judgment as authorized by federal regulations for this purpose;

- i. have earned a minimum high school cumulative grade point average of 2.50 calculated on a 4.00 scale;
- j. have attained a composite score of at least 20 on the enhanced ACT test;
- k. have successfully completed 17½ units of high school coursework constituting a core curriculum as follows:

Units Course

1	English I
1	English II
1	English III
1	English IV
1	Algebra I
1	Algebra II
1	Geometry, Trigonometry, Calculus or Comparable Advanced Math
1	Biology I
1	Chemistry I

Units Course

1	Earth Science, Environmental Science Physical Science, Biology II, Chemistry II or Physics
1	American History
1	World History, World Culture, Western Civilization or World Geography

1 Elective from the courses listed

- 1 Civics and/or Economics/
Free Enterprise
- 1 Fine Arts Survey; or 2 units
Performance Arts of Music
and/or Dance and/or Theater
or 2 units of Studio Art
- 2 In the same Foreign Language
- ½ Computer Science, Computer
Literacy, or Data Processing

1. the Louisiana Tuition Assistance Plan authorizes the payment of required fees for students who meet all the nonacademic requirements and:

i. meet two of these three academic requirements:

- 2.50 high school grade point average;
- 17.5 units of high school core courses;
- 20 enhanced ACT composite score;

ii. and, meet the third and remaining requirement by not less than:

- 2.25 high school grade point average; or,
- 16 units of high school core courses; or,
- 18 enhanced ACT composite score.

The requirement for successful completion of core curriculum courses which were not available to the applicant at the school attended, may be waived through the 1995-96 high school academic year;

m. be in compliance with the terms of other federal and state aid programs administered by the commission;

n. if the student is receiving other financial assistance awards which, together with the award of TAP, would exceed the institution's cost of attendance or some other limitation established by the institution which may be less than the cost of attendance, the amount of tuition to be paid by the TAP award shall be reduced;

o. not be receiving a tuition waiver or award from another source including, but not limited to, the Louisiana National Guard tuition waiver, the Vocational Rehabilitation tuition waiver, the LSU Board of Supervisors Scholarship and the Louisiana Honors Scholarship.

2. Award Notification/Acceptance:

a. receive notification from OSFA of eligibility determination;

b. respond in writing, if requested, to above correspondence by specified deadline;

c. receive award notification and return award acceptance to OSFA;

d. register for classes with tuition exemption notification form.

3. Renewal Eligibility. Continuing eligibility is contingent upon the recipient meeting the following requirements:

a. make steady academic progress toward an undergraduate degree, earning not less than 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or 8 quarter hours as the minimum for full-time undergraduate status;

b. maintain continuous enrollment for not less than two semesters or three quarters in each successive academic year, unless granted an exception for cause by OSFA;

c. maintain a cumulative grade point average of at least 2.50 calculated on a 4.00 scale at the end of the first academic

year and each year thereafter;

d. have no criminal record except for misdemeanor traffic violations;

e. annually apply for federal student aid;

f. be found to be in financial need. A "financial need"

base year maximum, which is the maximum allowable income for the student to qualify at the time of initial application, is set for each new applicant. Effective January 1, 1993, the base year maximum shall be annually adjusted for inflation in accordance with the procedure detailed in Paragraph C. 1.

h. The student will continue to be found in financial need as long as the family's most recent adjusted gross income, as defined in Paragraph C. 1. h. does not exceed the base year maximum after the adjustment for inflation. In the event that the family size were to increase due to an additional birth in the family or if the applicant's family status changes from dependent to independent, the base year maximum shall be recomputed based on the criteria of an initial applicant;

g. have previously received less than five years of tuition payment (10 semesters or 15 quarters), unless an extension is granted by OSFA.

h. failure to maintain academic eligibility will result in permanent cancellation of the recipient's entitlement. A recipient denied continuation because of failure to show financial need may be reinstated, upon written request, if the individual has maintained the academic requirements for continuation and has re-established financial need.

D. High School Participation/Responsibilities:

1. complete High School Certification Listing of Applicants and return to OSFA;

2. receive OSFA notification of students' eligibility determination and award selection determination.

Louisiana public and private high schools must certify to OSFA the credentials of graduates applying for the program. Residents of Louisiana graduating from out of state high schools are responsible for ensuring these schools provide certified credentials to OSFA. OSFA shall notify high schools of the eligibility of applicants certified by the high schools.

E. College/University Participation/Responsibilities. The only colleges/universities authorized to participate in the TAP program are Louisiana public colleges and universities.

1. Receive OSFA notification of students' eligibility determination.

2. Respond to OSFA communications as requested including, but not limited to, the following:

a. confirmation of full-time enrollment status each fall semester or quarter;

b. submit voucher to OSFA to be reimbursed for each term's tuition and fees waived for TAP recipients;

c. supply confirmation of continuing eligibility, including the following, to be supplied at the completion of each academic year (ending after each spring semester/quarter):

i. total number of hours earned during the specific academic year (excluding summer sessions);

ii. cumulative hours earned (including prior academic years and summer sessions);

iii. cumulative GPA, including all grade credits earned to date;

- iv. actual date of graduation;
- v. major;
- d. notify OSFA immediately if applicant fails to enroll or withdraws from school;
- e. notify OSFA of any irregularities discovered by the institution which may affect student eligibility status;
- f. maintain adequate records to verify compliance with LASFAC policies.

3. Follow LASFAC billing procedures, as follows:

a. Institutions may bill LASFAC only for students certified eligible by OSFA.

b. Institutions will bill LASFAC based on their certification of new students' first time, full-time enrollment as of the fourteenth class day (ninth class day for Louisiana Tech). Institutions are not to bill LASFAC for students who are enrolled less than full time on the fourteenth class day. In such cases, the students are responsible for reimbursing the institutions for any monies owed. After the fourteenth class day, refunds for less than full-time enrollment fourteenth class day are to be retained by the institution.

c. To prevent the student's total financial assistance awards from exceeding the institution's cost of attendance or some other limitation established by the institution which may be less than the cost of attendance, the institution may reduce the amount of tuition to be paid by the TAP award and subsequently billed to LASFAC.

d. Institutions may not bill LASFAC for a TAP award if the recipient has elected to accept a tuition waiver or award from another source including, but not limited to, the Louisiana National Guard tuition waiver, the Vocational Rehabilitation tuition waiver, the LSU Board of Supervisors Scholarship and the Louisiana Honors Scholarship.

e. Annually, institutions are required to provide OSFA a current fee schedule. Fee schedule is defined as a listing of the actual tuition and mandatory fees for attendance at that school as defined by the institution. An itemized description of the composition of the mandatory fees listed on the fee schedule must also be supplied.

f. Upon the school's certification of the TAP recipient's full-time enrollment, OSFA will reimburse the institution up to the maximum amount listed on the approved fee schedule.

Jack L. Guinn
Executive Director

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Assistance Plan (TAP) Income Adjustment

The Student Financial Assistance Commission announces procedures to make the annual inflationary adjustment to family gross income eligibility limitation in the Tuition

Assistance Plan. The Scholarship and Grant Policy and Procedure Manual, Chapter VI, Section C h will be amended as follows:

h. Demonstrate financial need as defined herein:

i. ...

ii. In determining the eligibility of applicants, the family adjusted gross income base amount applicable to the award year (\$25,000 for 1992-93) shall be multiplied by the inflation index rate reported for that year (3.31 percent for 1992) and the result, rounded up to the next whole dollar (\$828 for 1992), shall be added to the base amount to become the adjusted base amount (\$25,828 for 1993-94). The adjusted base amount shall become the base amount for future adjustments under this procedure. The \$5,000 allowance for each additional dependent child shall be added to the base amount to determine the family's adjusted gross income eligibility limitation. The dependent allowance shall not be adjusted for inflation.

Jack L. Guinn
Executive Director

RULE

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

Release Notification (LAC 33:III.5107)(OS15)

(Editor's Note: The section heading for LAC 33:III.5107 of a rule referenced in the August 20, 1993 *Louisiana Register*, page 1022 is being published as a correction.) (OS15)

TITLE 33

ENVIRONMENTAL QUALITY

Part III. Air Quality

**Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program**

**§5107. Reporting Requirements, Availability of
Information, and Public Notice Provisions**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:1022 (August 1993), repromulgated LR 19: (September 1993).

James B. Thompson, III
Assistant Secretary

RULE

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

**Scope and Mandatory Provisions of the Program; Solid
Waste Management System; and Solid Waste Standards
(LAC 33: VII.Chapters 3, 5 and 7) (SW08)**

Under the authority of the Louisiana Environmental Quality Act, particularly 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 Solid Waste Division Regulations, LAC 33:VII.Subpart 1.315.G, 521.L, 711, and 727.B (Log SW08).

In order to obtain state approval for RCRA Subtitle D, states must develop regulations that will be consistent with the requirements of 40 CFR 258. On February 20, 1993, Louisiana promulgated the Solid Waste Regulations (LAC 33:VII.Subpart 1) which incorporated all the Subtitle D requirements. These amendments incorporate language which was developed from EPA comments on the Solid Waste Regulations to clarify the meaning in §§315.G, 521.L, 711.B, and 727.B. These amendments are promulgated in order for Louisiana to obtain state approval for its permit program for municipal solid waste landfills.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

**Chapter 3. Scope and Mandatory Provisions of the
Program**

§315. Mandatory Provisions

**G. Permit Upgrade Schedule for Existing Facilities
Operating Under a Standard Permit**

9. The permit holder of a Type II facility must submit to the Solid Waste Division a new or amended closure plan and a post-closure plan in the form of a permit modification to address these regulations no later than October 9, 1993 or by the initial receipt of waste, whichever is later.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19: (September 1993).

Chapter 5. Solid Waste Management System

Subchapter C. Permit Application

**§521. Part II: Supplementary Information, All
Processing and Disposal Facilities**

L. Financial Responsibility. Standards governing financial responsibility are contained in LAC 33:VII.727. A section documenting financial responsibility according to LAC 33:VII.727 which contains the following information, must be included for all facilities:

4. evidence of a financial assurance mechanism for closure and/or post-closure care and corrective action for known releases when needed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19: (September 1993).

Chapter 7. Solid Waste Standards

**Subchapter B. Landfills, Surface Impoundments,
Landfarms**

§711. Standards Governing Landfills (Type I and II)

B. Facility Plans and Specifications

2. Daily and Interim Cover Requirements

c. Alternative daily cover materials may be approved by the administrative authority provided the standards of Subsection B.2.a of this Section are met. The administrative authority reserves the right to require testing to confirm acceptability. The administrative authority may waive the requirements for daily cover, for Type I landfills only, if the permit holder or applicant can demonstrate that the nature of the waste is such that daily cover is not necessary. Daily cover requirements may not be waived for Type II landfills.

C. Facility Administrative Procedures

1. Recordkeeping and Reports

b. Recordkeeping

iii. Records kept on site for all facilities shall include but not be limited to:

(k). records demonstrating that liners, leachate-control systems, and leak-detection and cover systems are constructed or installed in accordance with appropriate quality assurance procedures;

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19: (September 1993).

**Subchapter E. Financial Assurance for all Processors
and Disposers of Solid Waste**

§727. Financial Assurance

**B. Financial Responsibility for Corrective Action for Type
II Landfills**

2. The permit holder of each Type II landfill required to undertake a corrective action program under LAC 33:VII.709.E must establish, in a manner in accordance with Subsection A.2 of this Section, financial assurance for the

most recent corrective action program. The financial assurance must be provided within 120 days after the selection of the corrective action remedy in LAC 33:VII.709.E.6. The permit holder must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with LAC 33:VII.709.E.7.h.iii.(a) and (b). For the purpose of corrective action financial assurance only the words "corrective action" shall be substituted for the words "closure" or "post-closure" throughout Subsection A.2 of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19: (September 1993).

Glenn A. Miller
Assistant Secretary

RULE

Department of Health and Hospitals Board of Electrolysis Examiners

License Fees, Amendments and Rearrangements (LAC 46:XXXV.Chapters 1-21)

The Board of Electrolysis Examiners has amended LAC 46:XXXV.Chapters 1-21 in accordance with R.S. 37:3051-3077. The rules have been changed to provide for increased licensing fees for practitioners, as well as establishing the fees to licensed apprenticeship programs and licensed instructors. The rule changes require additional sanitary practice for handling of equipment during and between electrolysis sessions. Also included is the rearranging of rules and regulations into appropriate headings, correction of some terminology to more appropriate statement of rules and regulations, and requiring that persons applying to become instructors of electrolysis have a minimum of five consecutive years practice immediately before licensure.

Copies of the amendments may be viewed in their entirety at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802 and at the Board of Electrolysis Examiners, Box 1468, Baton Rouge, LA 70821.

Cheri L. Miller
Chairman

RULE

Department of Health and Hospitals Board of Medical Examiners

Occupational Therapy Permit Pending Visa Application (LAC 46:XLV.1940)

The Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3001-3014, 37:1270(B)(6), and the applicable provisions of the Administrative Procedure Act, has adopted a rule providing for a provisional temporary permit to be issued to applicants for occupational therapy licensure who are required to possess an H-1 or equivalent visa, but whose application therefor is pending with the U.S. Immigration and Naturalization Service. LAC 46:XLV, Subpart 2, §1940, as adopted, the rule, which was proposed for adoption by notice of intent published in the May 1993 issue of the *Louisiana Register*, is set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Chapter 19. Occupational Therapists and Occupational Therapy Assistants

Subchapter E. Temporary License

§1940. Provisional Temporary Permit Pending Application for Visa

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit;
2. 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or
3. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for.

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to Subsection B(1) of this Section, in favor of an applicant who holds a provisional temporary permit issued under this Section and who has filed a petition for H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19: (September 1993).

Delmar Rorison
Executive Director

RULE

Department of Health and Hospitals Board of Nursing

Disciplinary Proceedings (LAC 46:XLVII.3331)

Notice is hereby given that the Board of Nursing, under the authority of R.S. 37:918(K) and in accordance with R.S. 37:1746-1747 and R.S. 49:950 et seq., has adopted rules providing for disciplinary proceedings for registered nurses who fail to practice in accordance with LAC 46:XLVII.Chapter 40.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General Rules

Subchapter C. Disciplinary Proceedings

§3331. Definition of Terms

H.11. Failure to act or intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient, including but not limited to failing to practice in accordance with the Federal Centers for Disease Control recommendations for preventing transmission of human immunodeficiency virus (HIV) and hepatitis B virus (HBV).

H.15. Failing to report to the board one's status when one performs or participates in exposure-prone procedures and is known to be a carrier of the hepatitis B virus or human immunodeficiency virus, in accordance with LAC 46:XLVII.4005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), R.S. 37:921, and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 7:74 (March 1981), amended LR 19: (September 1993).

Barbara Morvant, M.N., R.N.
Executive Director

RULE

Department of Health and Hospitals Board of Nursing

Nursing Educational Programs (LAC 46:XLVII.3536)

Notice is hereby given that the Board of Nursing under the authority of R.S. 37:918 has adopted rules to establish standards for nursing education programs whose administrative control is located in another state offering programs, courses, and/or clinical experience in Louisiana.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Educational Programs

§3536. Approval for Nursing Education Programs whose Administrative Control is Located in Another State Offering Programs, Courses, and/ or Clinical Experience in Louisiana

A. Program of Studies. To receive approval by the Board of Nursing for a total program of studies offered in Louisiana by nursing programs whose administrative control is located in another state, the following criteria shall be met:

1. New programs follow the procedure to establish new programs as specified in LAC 46:XLVII.3533.A-E.

2. Programs must present evidence of compliance with all standards and requirements contained in LAC 46:XLVII.Chapter 35. Upon full approval, the program will be reviewed under the requirements for continued approval, as specified in LAC 46:XLVII:3535.A-K.

B. Course/Clinical Offerings. Out-of-state nursing programs offering courses/clinical experiences in Louisiana are expected to maintain the standards required of Louisiana-based programs. The board reserves the right to withdraw the approval of such offerings if adherence to these standards is not maintained. To receive approval by the Board of Nursing for course/clinical offerings in Louisiana by nursing programs whose administrative control is located in another state, the following criteria shall be met:

1. Approval/Accreditation Requirements. Evidence of approval/accreditation of the nursing program shall be submitted to the Board of Nursing as stipulated below:

a. The nursing program sponsoring the offering shall hold current approval by the Board of Nursing and/or other appropriate approval bodies in the state in which the parent institution is located.

b. Regional accreditation shall be held by the parent institution.

c. National League for Nursing accreditation is recommended.

d. The nursing program sponsoring the course/clinical offering must provide the Board of Nursing with the following materials for review at least four months prior to the scheduled initiation of the offering:

i. a letter of request for approval to provide the course/clinical offering which indicates the time-frame during

which the offering will be conducted, the clinical agency(ies) and the clinical unit(s) to be utilized;

ii. a copy of the philosophy/mission, purpose(s), conceptual/organizational framework, program objectives, and program outcomes;

iii. a curriculum pattern which lists all courses required within the program of study;

iv. a course syllabus for the course/clinical experience(s) to be offered which specifies the related objectives of the offering;

v. current school catalog.

e. Request for preceptorship learning experiences shall include evidence of compliance with LAC 46:XLVII.3541.A-J.

2. Coordination with Other Nursing Programs

a. Evidence of meetings or communications with representatives of the clinical agency, the out-of-state nursing program and all Louisiana nursing programs that hold current contractual agreements with the agency shall be submitted to the board.

b. Meetings or communications of respective representatives shall occur minimally on an annual basis, or on a semester basis as deemed necessary by any involved party.

c. A "Clinical Facility Survey" form shall be submitted by the program.

3. Students

a. All students shall be in good academic standing in the nursing program.

b. Students who hold or have held licensure in any health care discipline and who have or have had disciplinary action against such license, and/or students who have felony convictions shall petition the board for review and action regarding their right to practice as students of nursing in Louisiana.

c. Registered nurses who become students shall at all times hold a current unencumbered Louisiana registered nurse license.

d. Graduate performance on the licensure examination (NCLEX-RN) shall be maintained at an 80 percent or higher pass rate for each January-December calendar year. Upon initial request for approval, NCLEX-RN performance by graduates for the past two years shall be submitted to the board.

4. Faculty

a. Each faculty member shall hold a current license to practice as a registered nurse in Louisiana.

b. Each faculty member shall hold a minimum of a bachelor of science in nursing degree and a master of science in nursing, or an equivalent master's degree approved by the Board of Nursing, and a minimum of two years of nursing practice in a clinical setting.

c. Faculty shall be present for student supervision while students are assigned to clinical areas unless the students are engaged in a board-approved preceptorship experience.

d. The faculty to student ratio shall not exceed one to ten (1:10) for clinical instruction unless the students are engaged in a board-approved preceptorship experience which permits a maximum of one to twelve (1:12) faculty to student ratio.

e. A "Faculty Qualification" form shall be submitted for each faculty member providing instruction within the state of Louisiana.

5. Approval

a. Course/clinical offerings by out-of-state nursing programs may be approved for a period of two years, at which time program representatives may petition for renewal of approval for each additional two-year periods.

b. A written report which provides updated and current data relevant to the program shall be submitted as a component of the petition for renewal as specified in §3536.B.1-4.

c. Failure to comply with the requirements established by the Louisiana State Board of Nursing shall result in the immediate withdrawal of the board's approval of course/clinical offerings.

6. Post Approval. A copy of the executed contractual agreement between the academic institution and the clinical facility shall be submitted to the board prior to the initiation of the offering(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

Barbara L. Morvant, M.N., R.N.
Executive Director

RULE

Department of Health and Hospitals Board of Nursing

Nursing Educational Programs (LAC 46:XLVII.Chapter 35)

Notice is hereby given that the Board of Nursing, under the authority of R.S. 37:918 has amended and adopted rules to establish standards for nursing education programs preparing individuals to be licensed as registered nurses.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Chapter 35. Nursing Educational Programs

§3511. Program: Philosophy, Purpose, Objectives

A. The nursing education program shall have a clear statement of philosophy, consistent with the philosophy/mission of the parent institution and congruent with current concepts in nursing education.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§3513. Administration, Organization, Control

A. There shall be a governing body which has legal authority to conduct the nursing program, determine general policy and provide financial support.

B. ...

C. The program shall have comparable status with other educational units within the organizational structure of the parent institution.

D. The parent institution shall have an organizational chart which delineates the lines of responsibility and authority.

E. The program shall notify the board in writing, within two weeks, when there has been a change in the control of the institution, administrative head of the program, or the accreditation status of the educational facilities.

F. The program head shall have the authority and responsibility to administer the program in respect to:

1. the instructional program;
2. budget planning and management; and
3. administrative arrangements for faculty, staff, and students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§3515. Faculty and Faculty Organization

A. Faculty Body. There shall be qualified faculty adequate in numbers to provide a safe, effective faculty/student/client ratio not to exceed ten students to one faculty member (10:1) in a clinical setting and to implement the program in nursing in relation to its stated philosophy, purposes and objectives. The number and size of classes taught each year, and the number of community agencies and their geographic locations are considered in determining the number of required faculty (see Requirements for Preceptorship; LAC 46:XLVII.3541.A-J, for related standard).

B. Qualifications

1. The program head and each nurse faculty member shall hold a current license to practice as a registered nurse in Louisiana and shall be appointed in compliance with state and federal laws on non-discrimination.

2. The program head shall hold a minimum of baccalaureate and masters degrees in nursing, and preferably an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. The nurse faculty shall hold baccalaureate and masters degrees in nursing. Requests for academic equivalency shall be approved on an individual basis (see LAC 46:XLVII.3515.B.6 for related standard).

4. Nurse faculty shall have a minimum of two years of nursing practice as a registered nurse in a clinical setting prior to their appointment.

5. Nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

6. Exceptions to the academic qualifications for nurse

faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. B.S.N. prepared individuals who are not enrolled in a masters in nursing program are limited to a maximum of one calendar year;

b. B.S.N. prepared individuals who are enrolled in a masters in nursing program shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of three calendar years.

7. The number of faculty exceptions shall not exceed 20 percent of the number of full-time nurse faculty employed (not FTE) in the program.

C. A faculty resignation rate that exceeds one-third of the full-time nurse faculty employed by the program (not FTE) in an annual report shall be reported and justified in the Annual School Report.

D. ...

E. Policies for nurse faculty shall include but not be limited to:

1. qualifications for the position;
2. contract or letter of appointment to delineate terms of appointment, functions and responsibilities of the position; and E.3 - I. ...

J. Nurse faculty shall be within the clinical facility during the learning experiences of students unless the students are observing only or engaged in a board-approved preceptor or community based experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§3517. Student Selection and Guidance

A. ...

B. Qualified applicants shall be considered for admission without discrimination and in compliance with applicable state and federal laws and regulations.

1. Students who hold or have held licensure in any health care discipline and who have or have had disciplinary action against such license, and/or students who have or have had felony convictions, shall petition the board for review and action regarding their right to practice as students of nursing in Louisiana prior to entry into the first clinical course.

2. Registered nurses who become students shall at all times hold a current unencumbered Louisiana registered nurse license.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§3519. Facilities, Resources, Services

A. ...

B. Classrooms, conference rooms, multipurpose rooms,

learning laboratories and library resources shall be provided.

C. Offices for administrative personnel, faculty and support staff shall be provided.

D. ...

E. Nursing library resources shall be provided and:

1. holdings shall be organized, maintained, and readily accessible to students and faculty;

2. resources shall include current references, books and periodicals on nursing and related subjects, and historical references; and

3. a qualified library staff shall be provided.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§3521. Curriculum

A. The faculty shall periodically review, evaluate and revise as appropriate the philosophy/mission, purpose(s), conceptual/organizational framework, objectives and outcomes of the program.

B. ...

C. The philosophy/mission, purpose(s), conceptual/organizational framework, objectives and outcomes shall be used by the faculty in planning, implementing and evaluating the total program.

D. The objectives and outcomes shall be consistent with the philosophy and describe the cognitive, affective and psychomotor capabilities of the graduate.

E. The curriculum shall include, but not be limited to, content from the behavioral, biological, mathematical, nursing and physical sciences.

F. Opportunities shall be provided for the application of the nursing process throughout the curriculum and in a variety of settings.

G. ...

H.1. The nursing courses shall provide for classroom and clinical laboratory instruction so that concepts taught in the classroom and clinical instruction shall occur within the same instructional block and shall be under the supervision of a faculty member of the nursing program.

2. Provision shall be made for learning experiences with clients having nursing care needs in all age groups and stages of the health-illness continuum as appropriate to the role expectations of the graduate.

I. Provision shall be made for the development of other knowledge and skills as deemed necessary by the faculty and as appropriate to the role expectations of the graduate.

J. The curriculum shall be arranged to provide opportunities for upward career mobility for students who have completed other nursing programs and have met appropriate requirements for licensure.

1. Mechanisms for the recognition of prior learning and advanced placement in the curriculum shall be in place.

2. Any formalized agreements between programs to facilitate the transfer of credit between nursing programs shall be identified and described.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), amended LR 10:1026 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§3523. Program Evaluation

A. ...

1. philosophy/mission, purpose(s), conceptual/organizational framework, objectives and outcomes of the curriculum;

2. teaching/learning experiences;

3. expected competencies of the graduate;

4. student(s) evaluations of courses;

5. instructor evaluations of students;

6. performance of graduates on the National Council Licensure Examinations (NCLEX-RN);

7. follow-up studies of the graduates; and

8. employment functioning of the graduates.

B. The nursing education program shall have a pass rate of 80 percent or greater achieved by the candidates taking the licensure examination for the first time in any one *January to December* calendar year, or the program shall be placed on conditional approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977) amended by the Department of Health and Hospitals, Board of Nursing, LR 15:1081 (December 1989), LR 19: (September 1993).

§3527. Records and Reports

A. The nursing education program and the parent institution shall develop and implement a systematic plan for maintaining student records in accordance with accepted academic standards.

1. Student Records

a. Each student's records include an application, progression evaluation, and graduation forms which are kept on file for a minimum of one year after graduation or three years after termination from the program if the student does not graduate.

b. The application and final transcript are kept on file permanently.

B. Faculty Records. Faculty records shall be on file in the nursing education program and/or in the parent institution and shall be in compliance with existing Federal, State and institutional requirements.

C. Other records shall be kept on file and shall include:

1. current program bulletin;

2. current budget and fiscal reports;

3. current contracts with cooperating agencies;

4. minutes of nurse faculty committee meetings;

5. graduates' performance on NCLEX-RN;

6. follow up studies of the graduates; and

7. program self-evaluation studies.

D. The nursing education program submits to the board the following reports:

1. annual report on the form provided by the board;

2. interim reports on the form provided by the board;

3. self-study report on the form provided by the board; and

4. other reports as deemed necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189 (April 1977), amended LR 10:1026 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§3529. Selection and Use of Clinical Facilities

A. Hospitals used for clinical experiences shall be licensed by the state of Louisiana and certified by the Health Care Financing Administration (HCFA). In addition, hospitals should be accredited by the Joint Commission of Accredited Health Organizations (JCAHO). Other health care agencies shall be accredited or approved by a recognized accrediting or approving agency.

B. - C. ...

D. Contractual agreements between the program and the agency shall be in writing, shall state rights and responsibilities of each party, shall include a termination clause and are reviewed biennially.

E. The facility shall have:

1. a written philosophy of patient/client care which gives direction to nursing care;

2. qualified registered nurses to insure the safe care of patient and to serve as role models for students;

3. a sufficient number of patients/clients to provide learning experiences to meet the objectives of courses;

4. an environment in which the student is recognized as a learner;

5. established standards for nursing care congruent with the board's legal standards for nursing care;

6. criteria for making patient assignments;

7. complete and current policy and procedure manuals available;

8. available evidence of nursing quality assurance programs;

9. clearly defined written personnel policies, including job descriptions for all categories of nursing personnel;

10. a planned program for orientation, in-service, and continuing education programs for nursing personnel;

11. a means of communication between faculty and agency administrative personnel and between faculties of all nursing education programs that use the agency;

12. evidence that the agency's personnel understand their relationship to faculty and students and that the responsibility for coordination is specifically identified; and

13. designated conference areas on, or in close proximity to clinical learning sites.

F. The program head shall notify the board in writing when a clinical agency being used for students' clinical practice loses accreditation or approval status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189 (April 1977), amended by the Department of Health and Hospitals, LR 16: (February 1990), LR 19: (September 1993).

§3535. Procedure of Continuing Full Approval

A. On-site surveys shall be made on a scheduled basis, at the discretion of the board, or upon the request of the program.

B. Programs holding full Louisiana State Board of Nursing approval for a minimum of five consecutive years and full National League for Nursing accreditation may request to have Louisiana State Board of Nursing survey visits coordinated with National League for Nursing accreditation visits. Following receipt of the official request by the program, the date of initiation of this process for the program shall be determined by the board.

1. An on-site visit shall be conducted by an authorized representative of the board within six months following each National League for Nursing accreditation visit.

2. To meet the self-study requirements, the National League for Nursing self-study report and the addendum required by the board shall be submitted to the board at least 21 days prior to the scheduled on-site survey visit.

3. A copy of any National League for Nursing correspondence concerning accreditation and National League for Nursing interim reports shall be forwarded to the board.

C. An on-site survey of a nursing education program which does not hold full National League for Nursing accreditation status shall be conducted by an authorized representative of the board at least every five years.

D. A written report of the on-site survey is sent to the administrative officer of the parent institution, to the program head, and to all board members.

E. The program head may submit a response to the report of the on-site survey and also be present when the board reviews and acts upon the report.

F. Action relevant to the approval status of the program is taken by the board after an evaluation of:

1. the on-site survey document; or

2. the program's annual report; or

3. evidence that indicates the program fails to meet the standards and requirements.

G. The board shall provide for an evaluation and hearing to determine if a program has met or has failed to meet the standards and requirements and:

1. gives written notice that the standards have been met and continues full approval or restores approval; or

2. gives written notice of specified deficiency(ies) and places the program on conditional approval for a period of one year.

H. A program has the right at any time to present evidence to the board that the deficiency(ies) has been corrected and may petition the board to restore full approval to the program.

I. No later than 12 months from the date the program was placed on conditional approval, the program shall submit a written report to the board with evidence that the standard(s) have been met, and may petition the board to restore full approval.

J. If a deficiency(ies) cannot be corrected in 12 months, the program shall file a plan for meeting the standard(s) and may petition the board to continue the conditional approval status.

K. Conditional approval status is not granted to a program for more than three consecutive one year periods.

L. After three consecutive years on conditional approval a program shall not admit any students into the nursing sequence until the board has determined that all standards have been met.

M. The right to appeal the board's decision is afforded any program in accordance with R.S. 37:918(C) and the Louisiana Administrative Procedure Act, Section 965 Appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1027 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§3537. Procedure for Proposed Major Change in Curriculum

A nursing education program proposing a major curriculum change shall submit to the board, six months prior to date of implementation, the following:

A. evidence that the parent institution has approved the curriculum change;

B. rationale for the proposed change;

C. philosophy/mission, purpose(s), conceptual/organizational framework, outcomes, program objectives, course objectives and course outlines;

D. concise presentation of current and proposed curriculum;

E. time table for implementation of the change in curriculum;

F. an explanation of the anticipated effect on currently enrolled students; and

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§3539. Procedure for Submitting Required Forms and Reports

A. **Annual Report.** The nursing education program shall submit 10 copies of an annual report, on a form provided by the board, on the designated date, accompanied by one copy of the current school catalog.

B. **Interim Reports**

1. A "Faculty Qualification" form shall be submitted on a form provided by the board at the time each new faculty member is employed.

2. The nursing education program submits a "Clinical Facility Survey" form requesting approval of new clinical facilities needed for students' clinical practice areas. Board approval shall be secured in accord with §3529.B prior to the time students are assigned to the new facility.

3. Any program required to submit a National League for Nursing Interim Report shall submit a copy of the report to the board.

C. **Self Study**

1. A self study shall be submitted to the board 21 days prior to the scheduled on-site survey of the program.

2. The National League for Nursing self study report and the addendum required by the board may be submitted to meet the self study requirements of the board. (Related Standard 3535 B)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

Barbara L. Morvant, M.N., R.N.
Executive Director

RULE

Department of Health and Hospitals Board of Nursing

Prevention of Transmission of HBV and HIV (LAC 46:XLVII. Chapter 40)

Notice is hereby given that the Board of Nursing, under the authority of R.S. 37:918.K, and in accord with R.S. 37:1746-1747 and R.S. 49:950 et seq., has adopted rules prescribing practice and reporting requirements for registered nurses and registered nurse applicants to protect the public from the risk of the transmission of hepatitis B (HBV) and human immunodeficiency virus (HIV).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 40. Prevention of Transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV)

§4001. Definitions

For the purpose of this Chapter, the following terms are defined as follows:

Board—Louisiana State Board of Nursing.

Body Fluids—amniotic, pericardial, peritoneal, pleural, synovial and cerebrospinal fluids, semen, vaginal secretions and other body fluids, secretions and excretions containing visible blood.

Confidentiality

1. Reports and information furnished to the board pursuant to §4005 of this Chapter and records of the board relative to such information shall not be deemed to constitute public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative or investigative proceeding; providing that such reports, information and records may be disclosed by the board as necessary for the board to investigate or prosecute alleged violations of this Chapter.

2. The identity of registered nurses and registered nurse applicants who have reported their status as carriers of HBV or HIV to the board's nursing consultant for compliance pursuant to §4005 hereof shall be maintained in confidence by the nursing consultant for compliance and shall not be disclosed to any member, employee, agent, attorney or

representative of the board nor to any other person, firm, organization, or entity, government or private, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter.

Exposure-prone Procedure—an invasive procedure in which there is risk of percutaneous injury to the registered nurse or registered nurse applicant by virtue of digital palpations of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the fingers of a registered nurse or registered nurse applicant and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the registered nurse or registered nurse applicant and the blood or body fluids of the patient.

HBV—the hepatitis B virus.

HBeAG Seropositive—with respect to a registered nurse or registered nurse applicant, that a blood test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B e antigen.

HBsAg Seropositive—with respect to a registered nurse or registered nurse applicant, that a blood test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B surface antigens and that no subsequent test has confirmed that hepatitis B surface antigens are no longer present.

HIV—the human immunodeficiency virus, whether HIV-1 or HIV-2.

HIV Seropositive—with respect to a registered nurse or registered nurse applicant, that a test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of HIV antibodies.

Invasive Procedures—any procedure involving manual or instrumental contact with, or entry into, any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane or percutaneous wound of the human body.

Participating in an Exposure-prone Procedure—the preparation, processing, handling of blood, fluids, tissue or instruments which may be introduced into or come into contact with any body cavity, internal organ, subcutaneous tissue, submucosal tissue, mucous membrane or percutaneous wound of the human body in connection with the performance of an exposure-prone invasive procedure.

Registered Nurse—an individual licensed as a registered nurse in Louisiana, or an individual licensed as a registered nurse in another state and holding a 90-day permit to practice nursing in Louisiana in accordance with R.S. 37:920.

Registered Nurse Applicant—a graduate of an approved school of nursing who has been issued a temporary working permit, as provided for in R.S. 37:920.C.

Universal Precautions—those generally accepted infection control practices, principles, procedures, techniques and programs as recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV or HIV from a registered nurse or a registered nurse applicant to a patient, from a patient to a registered nurse or registered nurse

applicant, or from a patient to a patient, as such recommendations may be amended or supplemented from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§4003. Universal Precautions

A. All registered nurses and registered nurse applicants shall adhere to universal precautions for the prevention of transmission of infectious diseases as recommended by the Federal Centers for Disease Control for infection-control programs. These precautions include the appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments.

B. Registered nurses and registered nurse applicants who have exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient-care equipment and devices used in performing invasive procedures until the condition resolves.

C. Registered nurses and registered nurse applicants shall also comply with employing agency's current guidelines for disinfection and sterilization of reusable devices used in invasive procedures.

D. Registered nurses and registered nurse applicants who perform invasive procedures not identified as exposure-prone, and who are or become infected with HIV or HBV, shall practice standard surgical or dental technique and comply with universal precautions and current standards for sterilization/disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§4005. Self-Reporting

A. Within 90 days of the effective date of this Chapter, registered nurses and registered nurse applicants who perform, or participate in, exposure-prone procedures and have been previously diagnosed as HBV seropositive and/or HIV seropositive shall give notice of such diagnosis to the board on a reporting form supplied by the board. Such notice shall be mailed to the nursing consultant for compliance, marked "Personal and Confidential" by registered or certified mail. This report shall be confidential as provided in §4001 of this Chapter, definition of confidentiality.

B. Registered nurses and registered nurse applicants who know or should know that they carry and are capable of transmitting HBV or HIV and who perform or participate in exposure-prone procedures shall report their status to the Board of Nursing within 30 days from the date of the performance of the diagnostic test. They shall give notice of such diagnosis to the board on a reporting form supplied by the board which shall be mailed to the nursing consultant for compliance, marked "Personal and Confidential," by registered or certified mail. This report shall be confidential as provided in Act 1009 of the 1991 Louisiana Legislature.

C. Provided that the identity of the self-reporting registered nurse or registered nurse applicant is not disclosed, either directly or indirectly, the provisions of this Section shall not be deemed to prevent disclosure by the nursing consultant for

compliance or the board, to governmental public health agencies with a legitimate need therefor, of statistical data derived from such reports, including, without limitation, the number and demographics of registered nurses and registered nurse applicants having reported themselves as HBsAg and/or HIV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

§4007. Authorization to Perform or Participate in Exposure-Prone Procedures

A. Registered nurses and registered nurse applicants who perform or participate in exposure-prone procedures shall, in the performance of or participation in any such procedure or function, be familiar with, observe, and rigorously adhere to both general infection control practices and universal blood and body-fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of HBV or HIV from a registered nurse or registered nurse applicant to a patient, from a patient to a registered nurse or registered nurse applicant, or from a patient to a patient.

B. Registered nurses and registered nurse applicants who perform or participate in exposure-prone procedures and who do not have serologic evidence of immunity to HBV from previous infection, and have not been vaccinated against HBV, shall obtain their HBsAg status and, if that is positive, shall also obtain their HBeAg status.

C. Registered nurses and registered nurse applicants who are infected with HIV or HBV (and are HBeAg positive) shall not perform exposure-prone procedures unless they have sought periodic counsel from an expert review panel, as determined by the expert panel, and have been advised under what circumstances, if any, they may continue to perform these procedures.

D. An expert review panel, appointed by the Board of Nursing, shall be constituted of the nursing consultant for compliance, and at least four members representing a balanced perspective, such as one or more of each of the following: a licensed psychiatrist or psychologist, the licensee's personal physician, a member of the agency's infection control committee (if agency has such committee), a registered nurse who is an infectious disease specialist with expertise in the procedures performed by the infected licensee, a state or local public health official.

E. Patients of the seropositive registered nurse or registered nurse applicant shall be notified of the registered nurse's seropositivity before they undergo exposure-prone invasive procedures in which the nurse will participate or perform. If the nurse will perform the procedure, an informed consent shall be obtained from the patient or a lawfully authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19: (September 1993).

Barbara Morvant, M.N., R.N.
Executive Director

RULE

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

Group Health Insurance Premium Payment Program

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Medicaid Program.

RULE

Medicaid of Louisiana is implementing the Group Health Insurance Premium Payment Program in accordance with Section 4402 of the Omnibus Budget Reconciliation Act of 1990. This program mandates that Medicaid beneficiaries enroll and maintain their enrollment in cost effective group health plans as a condition of Medicaid eligibility. The beneficiary or the individual acting on the behalf of the beneficiary shall cooperate to establish the availability and cost effectiveness of group health insurance. Medicaid benefits of the parent shall be terminated for failure to cooperate unless good cause for non-cooperation is established; however, Medicaid shall not be canceled for a child due to the parents' failure to cooperate. Medicaid of Louisiana will make the determination regarding the cost effectiveness of the group health available to the beneficiary as provided for by the federal law and regulations and the Federal State Medicaid Manual. Beneficiaries of Medicaid of Louisiana shall be enrolled in this program when such cost-effective health plans are available through the beneficiary's employer or a responsible party's employer-based health plan if the beneficiary is enrolled or eligible for such health plans. The Medicaid beneficiary will be enrolled for a six-month period in this program. The department shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the policy holder is due because of lower than anticipated claims for any period of time in which the department paid the premiums. Beneficiaries eligible for this program shall be entitled to coinsurance and deductible amounts for health insurance covered services to the extent allowed under the State Plan and for all services not covered by health insurance which are provided for within the State Plan.

Continued eligibility for this program is dependent upon the individual's ongoing eligibility for Medicaid.

Disapproval of this change by the Health Care Financing Administration will automatically cancel the provision of this proposed rule and the former policy will remain in effect.

Rose V. Forrest
Secretary

RULE

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

Hospital Licensing Regulations

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule.

RULE

The Department of Health and Hospitals allows each hospital to establish its individual policy regarding the ages of visitors to hospitals licensed in Louisiana.

Rose V. Forrest
Secretary

RULE

Department of Insurance
Commissioner of Insurance

Health Insurance—Regulation 46—Long-Term Care Policies

Pursuant to the provisions of R.S. 22:1736A, 1736E, 1737 and R.S. 49:950 et seq. the Department of Insurance, Office of the Commissioner hereby adopts Regulation 46. This regulation regulates long-term care insurance policies delivered or issued for delivery in this state.

LONG-TERM CARE INSURANCE

Section 1. Purpose

The purpose of this regulation is to implement R.S. 22:1731-1737, Long-Term Care Insurance Act, to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner under R.S. 22:1736A; R.S. 22:1736E; R.S. 22:1737; and, R.S. 49:950 et seq.

Section 3. Applicability and Scope

Except as otherwise specifically provided, this regulation applies to all long-term care insurance policies delivered or issued for delivery in this state on or after the effective date hereof, by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health maintenance organizations and all similar organizations.

Section 4. Definitions

For the purpose of this regulation, the terms *long-term care insurance*, *group long-term care insurance*, *commissioner*, *applicant*, *policy* and *certificate* shall have the meanings set forth in R.S. 22:1734(1)-(6).

Section 5. Policy Definitions

No long-term care insurance policy delivered or issued for delivery in this state shall use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:

A. *Adult day care*—a program for six or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

B. *Acute condition*—that the individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his or her health status.

C. *Home health care services*—medical and nonmedical services, provided to ill, disabled or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living and respite care services.

D. *Medicare*—"The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

E. *Mental or nervous disorder*—shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.

F. *Personal care*—the provision of hands-on services to assist an individual with activities of daily living (such as bathing, eating, dressing, transferring and toileting).

G. *Skilled nursing care, intermediate care, personal care, home care*, and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

H. All providers of services, including but not limited to *skilled nursing facility, extended care facility, intermediate care facility, convalescent nursing home, personal care facility, and home care agency* shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified.

Section 6. Policy Practices and Provisions

A. *Renewability*. The terms *guaranteed renewable* and *noncancellable* shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Section 7 of this regulation.

(1) No such policy issued to an individual shall contain renewal provisions other than *guaranteed renewable* or *noncancellable*.

(2) The term *guaranteed renewable* may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(3) The term *noncancellable* may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.

B. Limitations and Exclusions. No policy may be delivered or issued for delivery in this state as long-term care insurance if such policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

- (1) preexisting conditions or diseases;
- (2) mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease;
- (3) alcoholism and drug addiction;
- (4) illness, treatment or medical condition arising out of:
 - (a) war or act of war (whether declared or undeclared);
 - (b) participation in a felony, riot or insurrection;
 - (c) service in the armed forces or units auxiliary thereto;
 - (d) suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; or
 - (e) aviation (this exclusion applies only to non-fare-paying passengers).

(5) Treatment provided in a government facility (unless otherwise required by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance.

(6) This Subsection B is not intended to prohibit exclusions and limitations by type of provider or territorial limitations.

C. Extension of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if such institutionalization began while the long-term care insurance was in force and continues without interruption after termination. Such extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

D. Continuation or Conversion.

(1) Group long-term care insurance issued in this state on or after the effective date of this section shall provide covered individuals with a basis for continuation or conversion of coverage.

(2) For the purposes of this section, a *basis for continuation of coverage* means a policy provision which

maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies which restrict provision of benefits and services to, or contain incentives to use certain providers and/or facilities may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy. The commissioner shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(3) For the purposes of this section, a *basis for conversion of coverage* means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced), for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability.

(4) For the purposes of this section, *converted policy* means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers and/or facilities, the commissioner, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(5) Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than 31 days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

(6) Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

(7) Continuation of coverage or issuance of a converted policy shall be mandatory, except where:

(a) termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or

(b) the terminating coverage is replaced not later than 31 days after termination, by group coverage effective on the day following the termination of coverage:

(i) providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided by the terminating coverage; and

(ii) the premium for which is calculated in a manner consistent with the requirements of Paragraph (6) of this Section.

(8) Notwithstanding any other provision of this section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy which provides benefits on the basis of incurred expenses, may contain a provision which results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100 percent of incurred expenses. Such provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(9) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

(10) Notwithstanding any other provision of this section, any insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person, shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

(11) For the purposes of this section: a *Managed-Care Plan* is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.

F. **Discontinuance and Replacement.** If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

(1) shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and

(2) shall not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services.

G. The premiums charged to an insured for long-term care insurance shall not increase due to either:

(1) the increasing age of the insured at ages beyond 65; or

(2) the duration the insured has been covered under the policy.

Section 7. Required Disclosure Provisions

A. **Renewability.** Individual long-term care insurance policies shall contain a renewability provision. Such provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. This provision shall not apply to policies which do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder.

B. **Riders and Endorsements.** Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy, rider or endorsement.

C. **Payment of Benefits.** A long-term care insurance policy which provides for the payment of benefits based on standards described as *usual and customary, reasonable and customary* or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

D. **Limitations.** If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as *Preexisting Condition Limitations*.

E. **Other Limitations or Conditions on Eligibility for Benefits.** A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in R.S. 22:1736D(2) shall set forth a description of such limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label such paragraph *Limitations or Conditions on Eligibility for Benefits*.

F. **Disclosure of Tax Consequences.** With regard to life insurance policies which provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents.

Section 8. Prohibition Against Post-Claim Underwriting

A. All applications for long-term care insurance policies or certificates except those which are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

B.(1) If an application for long-term care insurance contains a question which asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed.

(2) If the medications listed in such application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition.

C. Except for policies or certificates which are guaranteed issue:

(1) The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate:

Caution: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy.

(2) The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

(3) Prior to issuance of a long-term care policy or certificate to an applicant age 80 or older, the insurer shall obtain one of the following:

- (a) a report of a physical examination;
- (b) an assessment of functional capacity;
- (c) an attending physician's statement; or
- (d) copies of medical records.

D. A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

E. Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those which the insured voluntarily effectuated and shall annually furnish this information to the Insurance Commissioner in the format prescribed by the National Association of Insurance Commissioners in Appendix A.

Section 9. Minimum Standards for Home Health and Community Care Benefits in Long-term Care Insurance Policies

A. A long-term care insurance policy or certificate shall not, if it provides benefits for home health care or community care services, limit or exclude benefits:

(1) by requiring that the insured/claimant would need care in a skilled nursing facility if home health care services were not provided;

(2) by requiring that the insured/claimant first or simultaneously receive nursing and/or therapeutic services in a home, community or institutional setting before home health care services are covered;

(3) by limiting eligible services to services provided by registered nurses or licensed practical nurses;

(4) by requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification;

(5) by excluding coverage for personal care services provided by a home health aide;

(6) by requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service;

(7) by requiring that the insured/claimant have an acute condition before home health care services are covered;

(8) by limiting benefits to services provided by Medicare-certified agencies or providers;

(9) by excluding coverage for adult day care services.

B. A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement shall not apply to policies or certificates issued to residents of continuing care retirement communities.

C. Home health care coverage may be applied to the nonhome health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate. The subsection is not intended to restrict home health care to a period of time which would make the benefit illusory. It is suggested that fewer than 365 benefit days and less than a \$25 daily maximum benefit constitute illusory home health care benefits.

Section 10. Requirements to Offer Inflation Protection

A. No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

(1) increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent;

(2) guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or

(3) covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

B. Where the policy is issued to a group, the required offer in Subsection A above shall be made to the group policyholder; except, if the policy is issued to a group defined in R.S. 22:1734(4)(d) other than to a continuing care retirement community, the offering shall be made to each proposed certificateholder.

C. The offer in Subsection A above shall not be required of life insurance policies or riders containing accelerated long-term care benefits.

D. Insurers shall include the following information in or with the outline of coverage:

(1) A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20 year period.

(2) Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.

E. Inflation protection benefit increases under a policy which contains such benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy.

F. An offer of inflation protection which provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. Such offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

G.(1) Inflation protection as provided in Subsection A(1) of this section shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in this subsection.

(2) The rejection shall be considered a part of the application and shall state: I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection.

Section 11. Requirements for Application Forms and Replacement Coverage

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing such questions may be used. With regard to a replacement policy issued to a group defined by R.S. 22:1734(4)(a) the following questions may be modified only to the extent necessary to elicit information health or long-term care insurance policies other than the group policy being replaced; provided, however, that the certificate-holder has been notified of the replacement.

(1) Do you have another long-term care insurance policy or certificate in force (including health care service contract,

health maintenance organization contract)?

(2) Did you have another long-term care insurance policy or certificate in force during the last 12 months?

(a) If so, with which company?

(b) If that policy lapsed, when did it lapse?

(3) Are you covered by Medicaid?

(4) Do you intend to replace any of your medical or health insurance coverage with this policy [certificate]?

B. Agents shall list any other health insurance policies they have sold to the applicant.

(1) List policies sold which are still in force.

(2) List policies sold in the past five years which are no longer in force.

C. Solicitations Other than Direct Response. Upon determining that a sale will involve replacement, an insurer; other than an insurer using direct response solicitation methods, or its agent; shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy. You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT [BROKER OR OTHER REPRESENTATIVE]:

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and

completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before your sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Agent, Broker or Other Representative)

[Typed Name and Address of Agent or Broker]

The above *Notice to Applicant* was delivered to me on:

(Date)

(Applicant's Signature)

D. Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the following manner:

**NOTICE TO APPLICANT REGARDING REPLACEMENT
OF ACCIDENT AND SICKNESS OR LONG-TERM CARE
INSURANCE**

[Insurance company's name and address]

**SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE
FUTURE.**

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by [company name] Insurance Company. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy. You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)

replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code. Such notice shall be made within five working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

Section 12. Reporting Requirements

A. Every insurer shall maintain records for each agent of that agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales.

B. Each insurer shall report annually by June 30 the 10 percent of its agents with the greatest percentages of lapses and replacements as measured by Subsection A above.

C. Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

D. Every insurer shall report annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.

E. Every insurer shall report annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year.

F. For purposes of this section, *policy* shall mean only long-term care insurance and *report* means on a statewide basis.

Section 13. Discretionary Powers of Commissioner

The commissioner may upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this regulation with respect to a specific long-term care insurance policy or certificate upon a written finding that:

A. the modification or suspension would be in the best interest of the insureds; and

B. the purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and

C.(1) the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or

(2) the policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or

(3) the modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

Section 14. Loss Ratio

Benefits under individual long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least 60 percent, calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

A. statistical credibility of incurred claims experience and earned premiums;

B. the period for which rates are computed to provide coverage;

C. experienced and projected trends;

D. concentration of experience within early policy duration;

E. expected claim fluctuation;

F. experience refunds, adjustments or dividends;

G. renewability features;

H. all appropriate expense factors;

I. interest;

J. experimental nature of the coverage;

K. policy reserves;

L. mix of business by risk classification; and

M. product features such as long elimination periods, high deductibles and high maximum limits.

Section 15. Filing Requirement

Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state, pursuant to R.S. 22:1735, it shall file with the commissioner evidence that the group policy or certificate there under has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state.

Section 16. Filing Requirements for Advertising

A. Every insurer, health care service plan or other entity providing long-term care insurance or benefits in this state shall provide a copy of any long-term care insurance advertisement intended for use in this state whether through written, radio or television medium to the Commissioner of Insurance of this state for review or approval by the commissioner to the extent it may be required under state law. In addition, all advertisements shall be retained by the insurer, health care service plan or other entity for at least three years from the date the advertisement was first used.

B. The commissioner may exempt from these requirements any advertising form or material when in the commissioner's opinion, this requirement may not be reasonably applied.

Section 17. Standards for Marketing

A. Every insurer, health care service plan or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

(1) Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

(2) Establish marketing procedures to assure excessive insurance is not sold or issued.

(3) Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance.

(5) Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with this Subsection A.

(6) If the state in which the policy or certificate is to be delivered or issued for delivery has a senior insurance counselling program approved by the commissioner, the insurer shall, at solicitation, provide written notice to the prospective policyholder and certificateholder that such a program is available and the name, address and telephone number of the program.

B. In addition to the practices prohibited in R.S. 22:1211 et seq., the following acts and practices are prohibited:

(1) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or to take out a policy of insurance with another insurer.

(2) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

Section 18. Appropriateness of Recommended Purchase

In recommending the purchase or replacement of any long-term care insurance policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

Section 19. Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates

If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy.

Section 20. Standard Format Outline of Coverage

This section of the regulation implements, interprets and makes specific, the provisions of R.S. 22:1736G in prescribing a standard format and the content of an outline of coverage.

A. The outline of coverage shall be a free-standing document, using no smaller than 10 point type.

B. The outline of coverage shall contain no material of an advertising nature.

C. Text which is capitalized or underscored in the standard format outline of coverage may be emphasized by other means which provide prominence equivalent to such capitalization or underscoring.

D. Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

E. Format for outline of coverage:

[COMPANY NAME]
[ADDRESS - CITY & STATE]
[TELEPHONE NUMBER]
LONG-TERM CARE INSURANCE
OUTLINE OF COVERAGE

[Policy Number or Group Master Policy and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance]([a group policy] which was issued in the [indicate jurisdiction in which group policy was issued]).

2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!

3. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) [Provide a brief description of the right to return--free look provision of the policy.]

(b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]

4. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) [For agents] Neither [insert company name] nor its agents represent Medicare, the federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

5. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

6. BENEFITS PROVIDED BY THIS POLICY

(a) [Covered services, related deductible(s), waiting periods, elimination periods and benefit maximums.]

(b) [Institutional benefits, by skill level.]

(c) [Non-institutional benefits, by skill level.]

[Any benefit screens must be explained in this section.

If these screens differ for different benefits, explanation of the screen should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified. If activities of daily living (ADLs) are used to measure an insured's need for long-term care, then these qualifying criteria or screens must be explained.]

7. LIMITATIONS AND EXCLUSIONS. [Describe:

(a) preexisting conditions;

(b) non-eligible facilities/provider;

(c) non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) exclusions/exceptions;

(e) limitations.]

[This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in (6) above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

8. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

(a) that the benefit level will not increase over time;

(b) any automatic benefit adjustment provisions;

(c) whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased overtime if not by a specified amount or percentage;

(d) if there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;

(e) and finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

9. TERMS UNDER WHICH THE POLICY (OR CERTIFICATE) MAY BE CONTINUED IN FORCE OR DISCONTINUED.

[(a) Describe the policy renewability provisions;

(b) for group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;

(c) describe waiver of premium provisions or state that there are not such provisions;

(d) state whether or not the company has a right to change premium, and if such a right exists, describe clearly and concisely each circumstance under which premium may change.]

10. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

11. PREMIUM.

[(a) State the total annual premium for the policy;

(b) if the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

12. ADDITIONAL FEATURES.

[(a) Indicate if medical underwriting is used;

(b) Describe other important features.]

APPENDIX A

**RESCISSION REPORTING FORM FOR
LONG-TERM CARE POLICIES
FOR THE STATE OF LOUISIANA
FOR THE REPORTING YEAR 19[]**

Company Name: _____

Address: _____

Phone Number: _____

Due: March 1 annually

Instructions:

The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

Policy Form #	Policy and Certificate #	Name of Insured	Date of Policy Issuance	Date/s Claim/s Submitted	Date of Rescission

Detailed reason for rescission: _____

Signature

Name and Title (please type)

Date

Inquiries regarding this regulation should be directed to the Life and Health Division of the Department of Insurance at Box 94214, Baton Rouge, LA 70804-9214, or by calling (504) 342-5301.

James H. "Jim" Brown
Commissioner

RULE

**Department of Labor
Office of Workers' Compensation**

**Reimbursement Schedule Dental Care Services
(LAC 40:I.Chapter 53)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 23:1034.2 of Act 938 of the 1988 Regular Louisiana Legislative Session and R.S. 23:1203, the Department of Labor, Office of Workers' Compensation, has adopted rules to implement the dental care reimbursement schedule.

The Dental Care Reimbursement Schedule is part of the Medical Reimbursement Schedules. The purpose of the Medical Reimbursement Schedules is to coordinate an efficient program to administer medical services to injured workers. The medical reimbursement schedules are applicable to any person or corporation who renders such care, services or treatment or provides such drugs or supplies to all employees covered by Chapter 10 of Title 23 of the Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

The medical reimbursement schedules establish a basis for billing and payment of medical services provided to all injured employees.

Title 40

Labor and Employment

**Part I. Workers' Compensation Administration
Chapter 53. Dental Care Services, Reimbursement
Schedule Billing Instruction and
Maintenance Procedures**

§5301. Statement of Policy

A. It is the intent of this reimbursement schedule to limit to the mean of the usual and customary charge all fees for medical services, supplies, and other non-medical services delivered to workers' compensation claimants, as authorized by law.

B. The law provides that an employer or compensation insurer owes to an injured worker 100 percent of the medical fees incurred in the treatment of work-related injuries or occupational diseases (hereinafter referred to as "illness(es)").

1. It is therefore the policy of the Office of Workers' Compensation that medical bills for services should be sent to the carrier/self-insured employer for payment. Fees for

covered services in excess of the amounts allowable under the terms of this schedule are not recoverable from the employer, insurer, or employee.

2. It is also deemed to be in the best interest of all of the parties in the system that fees for services reasonably performed and billed in accordance with the reimbursement schedule should be promptly paid. Not paying or formally contesting such bills by filing LDOL/WC 1008 (Disputed Claim for Compensation), with the Office of Workers' Compensation within 30 days of the date of receipt of the bill may subject the carrier/self-insured employer to penalties and attorneys' fees. Additionally, frivolous contesting of the bill may subject the carrier/self-insured employer to penalties and attorneys fees.

3. If claimant is receiving treatment for both compensable and noncompensable medical conditions, only those services provided in treatment of compensable conditions should be listed on invoices submitted to the carrier/self-insured employer unless the non-compensable condition (e.g., hypertension, diabetes) has a direct bearing on the treatment of the compensable condition. In addition, payments from private payers for noncompensable conditions should not be listed on invoices submitted to the carrier/self-insured employer. If a provider reasonably doesn't know the workers' compensation status, or the workers' compensation insurer has denied coverage, the provider won't be penalized for not complying with this rule. Upon notification or knowledge of workers' compensation eligibility, the provider will comply with these regulations prospectively.

4. Statements of charges shall be made in accordance with standard coding methodology as established by these rules, ICD-9-CM, HCPCS, CPT-4 and CDT-1 coding manuals. Unbundling or fragmenting charges, duplicating or over-itemizing coding, or engaging in any other practice for the purpose of inflating bills for reimbursement is strictly prohibited. Services must be coded and charged in the manner guaranteeing the lowest charge applicable. Knowingly and willfully misrepresenting services provided to workers' compensation claimants is strictly prohibited.

5. Providers should take reasonable steps to ensure that only those services provided are billed to the carrier/self insured employer.

Violation of this provision may subject provider/practitioner to mandatory audit of all charges.

6. Bills for a particular charge item may not be included in subsequent billings without clear indication that they have been previously billed.

7. These rules are to be used in conjunction with Chapter 27, Rules on Utilization Review Procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers Compensation, LR 19: (September 1993).

§5303. Introduction

A. This document is primarily intended to facilitate the establishment of the maximum allowable reimbursement for dental care services rendered for compensable work-related illnesses or injuries.

B. For an overview of the Workers' Compensation

program and policies covering treatment of compensable work-related injuries or illnesses, please refer to the carrier/self-insured employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5305. Verification of Coverage

A. The carrier/self-insured employer is responsible for 100 percent of the maximum allowable reimbursement rate for covered services rendered for treatment of compensable conditions. The claimant is not required to contribute a copayment and does not have to meet any deductibles.

1. Prior to the provision of medical services, supplies, or other non-medical services the determination that the illness, injury, or condition, is work related must be made, and must be accomplished in the following manner.

a. Carrier/self-insured employer should be contacted for verification of coverage/liability.

b. The name and title of the individual verifying coverage/liability must be recorded in the claimant's records.

c. Denial of coverage/liability must be immediately communicated to the claimant.

2. Those procedures identified in this reimbursement schedule as noncovered are not billable to the claimant if rendered in treatment of compensable conditions unless the claimant is informed beforehand that he will be responsible for the charges.

3. In certain circumstances, the provider collects his fees from the claimant because he is unsure or unaware of the occupational nature of the injury or condition. If the provider decides to bill the workers' compensation carrier/self-insured employer after compensability has been established, he must, to the best of his knowledge, make certain that the claimant has not already filed for reimbursement. If the claimant has not filed, the provider should bill the carrier/self-insured employer and reimburse the claimant. To avoid duplicate billings, the provider should file for the claimant, billing the full amount; or, the claimant should bill the full amount himself.

B. For covered services, if there is a difference between the provider's billed amount and the Louisiana Office of Workers' Compensation maximum allowable reimbursement, the claimant, employer, or carrier *cannot*, under any circumstances, be billed for the difference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5307. Other Payer Liabilities

A. Whenever a claimant is eligible for Medicare or payment from another third party payer and is also eligible for workers' compensation medical benefits, the carrier/self-insured employer is always the primary payer, the payer of *first* resort. Services related to compensable conditions should be billed to the carrier/self-insured employer *before* attempting to collect from the third party payer.

B. If a claimant is receiving treatment for both compensable and noncompensable medical conditions, *only*

those services provided in treatment of compensable conditions should be listed on claims and invoices submitted to the carrier/self-insured employer. In addition, payments from private payers for noncompensable conditions should *not* be listed on invoices submitted to the carrier/self-insured employer.

C. Charges for non-compensable conditions are collectible by the provider from any other third party payer, subject to the limitations and exclusions contained in the third payers policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5309. Prior Authorization

A. All dental care services and items *must* have prior written authorization of the carrier/self-insured employer before reimbursement will be made. Claimant should be notified of this requirement upon initiation of the claim.

B. Prior authorization requests will be approved, denied, or amended and approved by the carrier/self-insured employer. Occasionally, some requests may be returned for further information, explanation or reports. Once a request is approved, please take great care to bill *only* for those procedure codes specifically authorized by the carrier/self-insured employer. In addition, please attach the authorization letter to the invoice or enter the prior authorization number in the appropriate field on the invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5311. Charges Paid by Claimants

When possible, prior approval of non-emergency expenditures by claimant is required. Occasionally a claimant may pay for an item or service which should have been paid by the carrier/self-insured employer. Nonetheless, the claimant is still limited by the same rules regulating delivery of services and authorization procedures that would apply if the insurer were making direct payment. When the carrier/self-insured employer is presented with a bill paid by the claimant the carrier/self-insured employer should do all of the following things:

1. advise the claimant in writing that unless a valid emergency exists, that prior approval of all expenditures is required, and give the claimant a disclaimer of carrier/self-insured employer liability for all future non-emergency expenditures where prior approval is not obtained;

2. reimburse the claimant for out-of-pocket expenses incurred for the item or service involved, if reasonable and necessarily incurred; and

3. compare the cost of the item/service with the maximum allowable reimbursement and if the cost is in excess of the maximum allowable reimbursement the carrier/self-insured employer should:

- a. attempt to recover any overage from the provider/vendor;

- b. notify the provider/vendor that service/items for this patient for treatment for the work-related condition must have prior approval from the carrier/self-insured employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5313. Billing Instructions

A. The American Dental Association (ADA) Claim Form is to be used for billing services provided to workers' compensation employer claimants. Do not use any other form.

B. Partial bills should not be filed by the provider or the claimant. An invoice for the full amount must be filed by one of the two parties. If the claimant pays for medical or other services which are determined to be compensable expenses, it is his responsibility to file the ADA dental claim form, with the workers' compensation carrier/self-insured employer to receive reimbursement.

C. This is not the case if the provider agrees to file for the claimant; the carrier will pay directly to the provider and the provider must refund any partial payments made by the claimant directly to the claimant.

D. Please read the instructions carefully before completing the form. Failure to provide the information requested in a readable form will result in delay of payment.

E. A sample ADA dental claim form and detailed instructions for the proper completion of the form follows.

F. Item-by-Item Instructions for Completion of the ADA Dental Claim Form.

This Section is intended to serve as an instructional guide for completing the ADA dental insurance claim form. All applicable information should be completed in full.

DENTIST'S PRETREATMENT ESTIMATE, OR STATEMENT OF ACTUAL SERVICES: Check the appropriate box to indicate if the form is being used for an estimate and authorization, or if the form represents a statement of actual services.

CARRIER NAME AND ADDRESS: Enter the name and address of the carrier where the claim is to be sent.

ITEM 1 Patient's name—enter the patient's first name, middle initial and last name.

ITEM 2 Relationship to employee—"self" is the claimant. (workers' compensation claims should always show "self"). Put an "X" in the appropriate box.

ITEM 3 Sex—put an "X" in the appropriate box; male or female.

ITEM 4 Patient birth date—enter the patient's date of birth, month, day and year.

ITEM 5 If full-time student—leave blank

ITEM 6 Employee/subscriber name and address—same as patient's name and address.

ITEM 7 Employee/subscriber social security or I.D. number—if the patient has other insurance, show the insured's policy number.

ITEM 8 Employee/subscriber birthday—same as patient's birthday.

ITEM 9 Employer (company name and address)—enter the employer's (company's) name and address.

ITEM 10 Group number—if the patient has other insurance, show the insured's group number.

ITEM 11 Is patient covered by another dental plan?—leave blank

ITEM 12 Name and address of carrier—leave blank

ITEM 12b Group number—leave blank

ITEM 13 Name and address of other employer(s)—leave blank

ITEM 14a Employee/subscriber name (if different than patient's)—leave blank

ITEM 14b Employee/subscriber Social Security or I.D. Number—leave blank

ITEM 14c Employee/subscriber birth date—leave blank

ITEM 15 Relationship to patient—leave blank

Patient Signature—have the patient or his authorized representative sign and date this block unless the signature is on file. If the patient's representative signs, the relationship to the patient must be indicated. The patient's signature authorizes release of medical information necessary to process the claim. It also authorizes payment of benefits to the physician or supplier.

Signature by mark, where an illiterate or physically handicapped person signs by mark (X), a witness must enter his/her name and address next to the mark.

Insured Person's Signature Block. The signature in this block authorizes payment to the physician or supplier.

ITEM 16 Name of billing dentist or entity—enter the individual dentist's name or the name of the group/practice corporation responsible for the billing. This may differ from the actual treating dentist's name. This is the name that should appear on any payments or correspondence that will be remitted to the billing dentist.

ITEM 17 Address where payment should be remitted—enter the address of the billing dentist or entity in Item 16.

ITEM 18 Dentist's Social Security Number or T.I.N.—show your physician/supplier federal tax I.D. (Employer Identification Number) or social security number.

ITEM 19 Dentist's license number—enter the license number of the billing dentist. This may differ from that of the treating dentist, which appears in the dentist's signature block at the bottom of the form.

ITEM 20 Dentist's phone number—enter the dentist's area code and phone number.

ITEM 21 First visit date current series—enter the date of the first visit in the current series of treatment.

ITEM 22 Place of treatment—enter the appropriate place of service code from the list provided.

Place of Service Codes and Definitions

CODES DEFINITIONS

00-10 Unassigned

11 *Office*—location, other than a hospital, skilled nursing facility (SNF), military treatment facility. Community health facility, state or local public health clinics or intermediate care facility (ICF), where the health professional routinely provides health examinations, diagnosis and treatment of illness or injury on an ambulatory basis.

12 *Patient's Home*—location, other than a hospital or other facility, where the patient receives care in a private residence.

13-20 Unassigned

21 *Inpatient Hospital*—a facility, other than psychiatric, which primarily provides diagnostic therapeutic (both surgical and nonsurgical) and rehabilitation services, or under the supervision of physicians to patients admitted for a variety of medical conditions.

22 *Outpatient Hospital*—a portion of a hospital which provides diagnostic, therapeutic (both surgical or nonsurgical) and rehabilitation services to sick or injured persons who do not require hospitalization or institutionalization.

23 *Emergency Room-Hospital*—a portion of a hospital where emergency diagnosis and treatment of illness or injury is provided.

24 *Ambulatory Surgical Center*—a freestanding facility, other than a physician's office, where surgical and diagnostic services are provided on an ambulatory basis.

25 *Birth Center*—a facility, other than a hospital's maternity facility or a physician's office, which provides a setting for labor, delivery and immediate post-partum care as well as immediate care of newborn infants.

26 *Military Treatment Facility*—a medical facility operated by one or more of the uniformed services. Military treatment facility (MTF) also refers to certain former U.S. Public Health Services (USPHS) facilities now designated as uniformed service treatment facilities (USTF).

27-30 Unassigned

31 *Skilled Nursing Facility*—a facility which primarily provides inpatient skilled nursing care and related services to patients who require medical, nursing or rehabilitative services but does not provide the level of care or treatment available in a hospital.

32 *Nursing Facility*—a facility which primarily provides to residents skilled nursing care and related services for the rehabilitation of injured, disabled or sick persons, or, on a regular basis, health related care services above the level of custodial care to other than mentally retarded individuals.

33 *Custodial Care Facility*—a facility which provides room, board and other personal assistance services, generally on a long-term basis, and which does not include a medical component.

34 *Hospice*—a facility, other than a patient's home, in which palliative and supportive care for terminally ill patients and their families are provided.

35-40 Unassigned

41 *Ambulance-Land*—a land vehicle specifically designed, equipped and staffed for lifesaving and transporting the sick or injured.

42 *Ambulance Air or Water*—an air or water vehicle specifically designed, equipped and staffed for lifesaving and transporting the sick or injured.

43-50 Unassigned

51 *Inpatient Psychiatric Facility*—a facility that provides inpatient psychiatric services for the diagnosis and treatment of mental illness on a 24-hour basis, by or under the supervision of a physician.

52 *Psychiatric Facility Partial Hospitalization*—a facility for the diagnosis and treatment of mental illness that provides a planned therapeutic program for patients who do not require full-time hospitalization, but who need broader programs than are possible from outpatient visits in a hospital-based or hospital-affiliated facility.

53 *Community Mental Health Center*—a facility that provides comprehensive mental health services on an ambulatory basis primarily to individuals residing or employed in a defined area.

54 *Intermediate Care Facility/Mentally Retarded*—a facility which primarily provides health-related care and services above the level of custodial care to mentally retarded individuals but does not provide the level of care or treatment available in a hospital or SNF.

55 *Residential Substance Abuse Treatment Facility*—a facility which provides treatment for substance (alcohol and drug) abuse to live-in residents who do not require acute medical care. Services include individual and group

therapy and counseling, laboratory tests, drugs and supplies, psychological testing, and room and board.

56 *Psychiatric Residential Treatment Center*—

57-60 *Unassigned*

61 *Comprehensive Inpatient Rehabilitation Facility*—a facility that provides comprehensive rehabilitation services under the supervision of a physician to inpatients with physical disabilities. Services include physical therapy, occupational therapy, speech pathology, social or psychological services, and orthotics and prosthetics services.

62 *Comprehensive Outpatient Rehabilitation Facility*—a facility that provides comprehensive rehabilitation services under the supervision of a physician to outpatients with physical disabilities. Services include physical therapy, occupational therapy, and speech pathology services.

63-64 *Unassigned*

65 *End Stage Renal Disease Treatment Facility*—a facility other than a hospital, which provides dialysis treatment, maintenance and/or training to patients or care givers on an ambulatory or home-care basis.

66-70 *Unassigned*

71 *State or Local Public Health Clinic*—a facility maintained by either state or local health departments that provides ambulatory primary medical care under the general direction of a physician.

72 *Rural Health Clinic*—a certified facility which is located in a rural medically underserved area that provides ambulatory primary medical care under the general direction of a physician.

73-80 *Unassigned*

81 *Independent Laboratory*—a laboratory certified to perform diagnostic and/or clinical tests independent of an institution or a physician's office.

82-98 *Unassigned*

99 *Other Unlisted Facility*—other service facilities not identified above.

ITEM 23 Radiographs or models enclosed—indicate whether diagnostic materials were submitted.

ITEM 24 Is treatment result of occupational illness or injury?—check yes or no to indicate whether employment related.

ITEM 25 Is treatment result of auto accident?—check yes or no to indicate whether injury is related to auto accident.

ITEM 26 Other accident—check yes or no to indicate accident other than employment or auto related.

ITEM 27 If prosthesis, is this the initial placement?—check yes or no.

ITEM 28 Date of prior placement?—enter the date of prior placement if applicable.

ITEM 29 Is treatment for orthodontics?—Check appropriate box.

ITEM 30 Examination and treatment plan—enter the examination and/or plan of treatment. List in order from tooth #1 through tooth #32 using the charting system shown.

ITEM 31 Remarks for unusual services—enter any information which may be helpful in determining the most appropriate benefit for the treatment. If space is inadequate, utilize unused portion of #30, or attach a separate sheet.

Dentist's Signature Block. Must include treating dentist's signature and license number.

Payment Itemization. The spaces under "Total Fee Charged" will be completed by the carrier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5315. Coding System

A. Resources

1. *CDT-1 Manual*—Council on Dental Care Programs American Dental Association, 211 East Chicago Avenue, Chicago, Illinois 60611 (312) 440-2500

2. *CPT Manual*—AMA Order Dept. P.O. Box 10946 Chicago, Illinois 60610 (800) 621-8335

3. *ADA Dental Claim Form*—Council on Dental Care Programs American Dental Association, 211 East Chicago Avenue, Chicago, Illinois 60611. (312) 440-2500

4. *HCPSC Manual* MAP 671 Executive Drive, Willowbrook, Illinois 60521. (800)624-6994

5. *Relative Values for Dentists*—Relative Value Studies, Inc., P.O. Box 6431, Denver, Colorado 80206. (303) 329-9787

B. CDT-1 Coding

1. For convenience, the current *Dental Terminology*, First Edition (CDT-1) procedure codes are divided into 12 categories of service. Additional coding systems such as ICD-9, CPT and HCPCS may also be used in the dental office.

2. Additional dental service codes from *Relative Values for Dentists** have been included where it was felt that more descriptive coding would be beneficial.

* Relative Value Studies, Inc. (RVSI) began as a collection of intellectuals in 1980. The group researched and collected data to produce a relative value scale designed for national use. A criteria based system founded on survey consensus was developed. *Relative Values for Physicians*, first published by McGraw Hill in 1984, is recognized nationally as the leading relative value study in private medical care.

RVSI began similar extensive research in 1985 to establish relative values for dentistry. In 1990 *Relative Values for Dentists* was published by Relative Value Studies, Inc.

Based on subsequent studies, RVSI has recently released *Passport to E/M Coding* and *Relative Values for Chiropractors*

3. Procedures denoted "BR" (by report) in the fee schedule should be justified by the submission of a report.

4. All fees should include the price of materials supplied and the performance of the service. Under some circumstances; however, fee adjustments are necessary and values of listed codes may be modified by use of the appropriate "modifier code number" Modifiers available:

-22 **Unusual Services**—report required

-50 **Bilateral or Multiple Field Procedures**—multiple procedures in separate anatomical field. The following values may be used:

100% first major procedure;

70% each additional field procedure.

-51 **Multiple Procedures**—multiple procedure in the same anatomical field. The following values may be used:

Single field

100% for first major procedure

50% of listed value for second

25% of listed value for third

10% of listed value for fourth

5% of listed value for fifth

BR for any procedure beyond 5.

-52 **Reduced Values**—reduced or estimated value for a procedure because of common practice or at the dentist's election.

-53 **Primary Emergency Services**—procedure is carried out by a dentist who will not be providing the follow-up care. The value may be 70 percent of the listed value.

-54 **Surgical Procedure Only**—used to identify the dentist performing the surgery. The value may be 70 percent of the listed value.

-55 **Follow-up Care Only**—identifies the dentist providing follow-up care. The value may be 30 percent of the listed value.

-56 **Pre-Operative Care Only**—identifies the dentist performing care up until surgery when another dentist takes over. Value may be 30 percent of the listed value.

-75 **Services Rendered by More than One Dentist**—when the condition requires more than one dentist, each dentist may be allowed 80 percent of the value for that procedure.

-99 **Multiple Modifiers**—By Report

The use of modifiers does not imply or guarantee that a provider will receive reimbursement as billed. Reimbursement for modified services or procedures must be based on documentation of medical necessity and must be determined on a case-by-case basis.

5. Fees for surgical procedures should be global in nature and include the surgery, any local anesthesia and normal

follow-up care. Fees for general anesthesia are extra as are complications or additional services and should be coded separately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5317. Covered Services

Only dental services necessitated by an occupational injury or illness are covered. Such services are provided as a result of damage to the teeth and/or dental work due to a work injury or exposure. In addition, dental appliances and prosthetics not originally purchased by the carrier/self-insured employer will be replaced if damaged or broken in a work-related accident in accordance with the provisions of R.S. 23:1203.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5319. Procedure Codes and Guidelines

A. The Current Dental Terminology (CDT) is a listing of descriptive terms and identifying codes for reporting dental services and procedures and are used for processing claims benefits. CDT was developed to provide a standard and effective system of reporting Dental services to third party payers for reimbursement. Each procedure or service is identified with a five digit code. By using these procedures, dental office staff can enhance the speed and accuracy with which a claim may be paid. You should always include the appropriate CDT code(s) when filing a claim.

B. Because medical nomenclature and procedural coding is a rapidly changing field, certain codes may be added, modified or deleted for the next year. Please ensure that your office is using the most current edition of CDT and that you update your codes annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5321. Maximum Allowable Reimbursement

Maximum Allowable Reimbursement lists the maximum payment allowed for dental items described by appropriate codes. Payment will be the least of:

1. the provider's usual and customary fee, or
2. a pre-negotiated amount between the provider and carrier/self-insured employer, or
3. the amount indicated in the maximum allowable reimbursement schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5323. Deposition/Witness Fee Limitation

Any health care provider who gives deposition shall be allowed a witness fee. Procedure code 99075 must be used to bill for a deposition. Reimbursement for a deposition should be a specific amount mutually agreed upon and in writing, in advance of the event. Fees may be at an hourly rate or a flat rate. Disputes over these fees will be resolved in the same

manner and subject to the same procedures as established for dispute resolution of claims for workers' compensation benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5325. Missed Appointments

The provider shall not receive payment for a missed appointment unless the appointment was arranged by the carrier or the employer. If the carrier or the employer fails to cancel the appointment not less than 72 hours prior to the time of the appointment and the provider is unable to arrange for a substitute appointment for that time, the provider may bill the carrier for the missed appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5327. Copies of Records and Reports

A. Health care providers must submit copies of records and reports to carriers, employers, claimants or their attorney and the Office of Workers' Compensation Administration upon request.

B. Health care providers are entitled to recover a reasonable amount, not to exceed \$1 per page, to cover the cost of copying documents which have been requested by the carrier.

1. Certain procedure code descriptors require the submission of records and/or reports with the claim form. There is no reimbursement of copy charges to the provider for these required records and reports.

2. Documentation which is submitted by the provider, but was not specifically requested by the carrier/self-insured employer, is not allowed a copy charge.

C. Health care providers must furnish an injured employee copies of his records and reports at the same time as copies are being furnished to the employer or carrier, at no expense to the employee. If additional copies are requested by claimant or his attorney, the copy charge to the employee or his attorney may not exceed \$.50 per page.

D. Health care providers may charge the actual direct cost of copying x-rays, microfilm or other non-paper records.

E. The OWCA may charge the actual cost of reproducing records which is established at \$0.25 per page and must be paid in advance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5329. Special Instructions

A. Procedure Codes not Listed in Rules

1. If a procedure is performed which is not listed in the maximum fee allowance, the health care provider must use an appropriate CDT code descriptor. They submit a narrative report to the carrier to explain why it was medically necessary to use a particular procedure code or descriptor not contained in the maximum fee allowance.

2. The CDT contains codes for unlisted procedures which end in "99." These codes should only be used when there is

no procedure code which accurately describes the service rendered. A special report is required as these services are reimbursed by report.

3. Services must be coded with valid five digit procedure codes.

B. By Report (BR)

1. BR refers to the method by which the reimbursement for a procedure is determined by the carrier when a service or procedure is performed by the provider that does not have an established maximum fee allowance.

2. Reimbursement for procedure codes listed as BR must be determined by the carrier based on documentation which is submitted to the carrier by the provider in a special report attached to the claim form. Information in this report must include, as appropriate:

- a. the pertinent history and physical findings;
- b. diagnostic tests and interpretations;
- c. therapeutic procedures;
- d. treatment for concurrent medical conditions;
- e. the final diagnosis/diagnoses;
- f. identification of, or an estimate of the time required for follow-up care;
- g. summary of treatment plan;
- h. copies of operative reports, consultation reports, progress notes, office notes or other applicable documentation.
- i. description of equipment necessary to provide the service.

3. Reimbursement by the carrier of BR procedures should be based upon the carrier's review of the submitted documentation, the recommendation from the carrier's medical consultant, and the carrier's review of the prevailing charges for similar services as identified by the carrier based on data which is representative of Louisiana charges.

4. Bundled Codes. These codes are marked BR, and are not payable if the service is included in the payment for other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5331. Carrier Responsibilities for Reimbursement Determinations

A. Medical Consultant. Carriers must utilize the expertise of physicians or other health care professionals in making determinations pertaining to acceptable, safe medical care and treatment and appropriate reimbursement for services rendered. The consultants should have expertise in the areas for which medical or other treatment determinations are being made.

B. Carriers must not change, alter, delete or obscure procedure codes.

1. When a carrier questions a procedure code reported by a provider, the carrier must contact the provider for clarification prior to reimbursing a claim. This may result in the carrier requesting additional documentation or a copy of the office or progress notes to substantiate the service in question from the provider.

2. If, after contracting the provider, a carrier determines that available provider documentation does not support the

level of service billed, the carrier may reimburse the provider at the appropriate level but must ensure that an explanation of medical benefits specifically denotes the action taken and explains the reimbursement made for the service in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5333. Explanation of Medical Benefits (EOMB)

A. Carriers must provide an explanation of medical benefits (EOMB) to health care providers whenever the carrier's reimbursement differs from the amount billed by the provider. The EOMB must be provided with the reimbursement check.

1. A carrier must use the listed EOMB codes and descriptors to explain why a provider's charge has been reduced or disallowed.

2. A carrier may develop additional EOMB codes, if necessary, to explain the adjustment of a claim, but must furnish to the provider a written explanation of each EOMB code used.

3. The EOMB must contain appropriate identifying information so the provider can relate a specific reimbursement to the applicable claimant, the procedure billed and the date of service.

B. Acceptable EOMBs may include:

1. Copies of the bill on which reimbursements and EOMB codes are listed.

2. Manually-produced or computerized forms which contain the EOMB codes, written explanations and the appropriate identifying information.

C. The following EOMB codes must be used by the carrier to explain to the provider why a procedure or service is not reimbursed as billed:

- 001 These services are not reimbursable under the Workers' Compensation Program
- 002 Charges exceed maximum allowance
- 003 Charge is included in the basic surgical allowance
- 004 Surgical assistant is not routinely allowed for this procedure. Documentation of medical necessity is required.
- 005 This procedure is included in the basic allowance of another procedure
- 006 This procedure is not appropriate for the diagnosis
- 007 This procedure is not within the scope of the license of the billing provider
- 008 Equipment or services are not prescribed by a physician
- 009 Exceeds reimbursement limitations
- 010 This service is not reimbursable unless billed by a physician
- 011 Incorrect billing form
- 012 Incorrect or incomplete license number of billing provider
- 013 Medical report required for payment
- 014 Documentation does not justify level of service billed
- 015 Place of service is inconsistent with procedure billed
- 016 Invalid procedure code

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5335. Reconsideration of Disputed Reimbursement

A. When, after examination of the EOMB, a health care provider is dissatisfied with a carrier's payment of a bill for medical services, a reconsideration may be requested by the provider.

1. A provider must make a written request for reconsideration within 60 days from receipt of the EOMB, accompanied by a copy of the bill in question, the carrier's EOMB and any supporting documentation to substantiate the medical necessity of the service and the diagnosis provided.

2. The carrier must process a reconsideration within 60 days of receipt.

a. The carrier must review and re-evaluate the original bill and accompanying documentation using its own medical consultant if necessary.

b. The carrier must notify the provider within 60 days of the results of the reconsideration, explain the reason(s) for their decision and cite the specific policy upon which their final adjustment was made.

B. The provider may request the Office of Workers' Compensation Administration, Medical Services Section, to resolve the dispute if the result of the carrier's reconsideration remains unsatisfactory.

C. The Office of Workers' Compensation Administration's Medical Services Section will resolve disputes between a provider and carrier which involve the interpretation of the reimbursement policies and allowable reimbursement contained in the applicable reimbursement manual.

1. A written request for the resolution of a disputed reimbursement claim must be submitted to the Office of Workers' Compensation Administration within 60 days of the carrier's reconsideration or 90 days from the provider's requested date when no response is received.

2. Valid request for reconsideration must include copies of the following:

- a. copies of the original and resubmitted bills;
- b. EOMB's including the specific reimbursement;
- c. supporting documentation and correspondence;
- d. specific information regarding contact with the carrier.

3. The dispute will be reviewed by the Office of Workers' Compensation Administration, Medical Services Section, and both parties, the provider and the carrier, will be notified of the decision within 60 days after receipt of a valid request.

4. Request for resolving disputes may be sent to: Office of Workers' Compensation, Medical Services Section, Attn: Medical Services Manager, Post Office Box 94040, Baton Rouge, LA 70804-9040.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5337. Out-of-State, On-the-Job Injuries or Work-Related Illness Treated in Louisiana

A. A patient may receive medical services in Louisiana for injuries incurred in an out-of-state accident.

1. If the patient is receiving treatment under the Workers' Compensation Law of another state, this manual would not apply.

2. If the patient is receiving care and treatment in Louisiana pursuant to the Louisiana Act, the reimbursement is subject to the requirements and amount of this manual regardless of the site of injury.

B. Providers may contact carriers to determine whether or not claimant benefits are provided pursuant to Louisiana law or the law of another state.

AUTHORITY NOTE: Promulgated in accordance with R. S. 23:1203 and R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5339. In-State Medical Treatment

A. Each employer shall furnish all necessary drugs, supplies, hospital care and services, medical and surgical treatment, and any non-medical treatment recognized by the laws of this state as legal. All such care, services, and treatment shall be performed at facilities within the state when available.

B. When billing for out-of-state services, supporting documentation is necessary to show that the service being provided cannot be performed within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203 and R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

§5341. Annual Maintenance

A. To ensure that the maximum allowable reimbursement schedule is as fair as possible, the Office of Workers' Compensation will conduct an annual survey to evaluate the reimbursement schedule.

1. This will be accomplished by having the Carriers/Self-insured Employers submit the following information for claims incurred in the preceding period. As an alternative, the Office of Workers' Compensation may contract with a responsible party to perform this review.

2. This information will be reviewed and any changes to the maximum allowable reimbursement rates will be published.

B. Information Required. The information required to review and establish appropriate maximum allowable reimbursement rates will include:

Information	# Positions/Type
1. CDT-1 Code	5 Alpha Numeric
2. Provider Name	30 Alpha Numeric
3. Provider Street Address	30 Alpha Numeric
4. Zip Code for Provider of Service	9 Numeric
5. Charge Amount	10 Numeric
6. Place of Treatment	2 Numeric
7. Date of Injury (yy/mm/dd)	6 Numeric
8. Claimant Name	30 Alpha
9. Claimant Social Security	9 Numeric
10. Employer Name	20 Alpha Numeric
11. Date of Receipt of Bill (yy/mm/dd)	6 Numeric
12. Date of Payment of Bill (yy/mm/dd)	6 Numeric

C. Communication Format

1. The following is the current format, however, the Office of Workers' Compensation will establish the format on an annual basis to facilitate the review.

2. Magnetic Tape
 - a. Tape 9-tract, 8.5" to 10.5" reels with silver mylar reflector (standard reels) with write-ring removed.
 - b. Recording Density — 1600 or 6250 Bytes per inch.
 - c. Recording Code — Extended Binary Coded Decimal Interchange Code (EBCDIC).
 - d. Header record must identify submitter and position

of each field in the record.

e. Tape must have a leading tape mark and an end of file mark.

The external label must identify the submitter, the date submitted, the tape number with identification of the total number of tapes submitted and the descriptive narrative of the information contained within the records.

D. Diskettes

1. a 5.25 inch diskette (floppy disk) that is IBM PC-DOS compatible with the following attributes:

- a. double sided
- b. double density
- c. soft sectored
- d. 9 sectors per track
- e. 40 tracks per diskette

2. a 3.5 inch, 720K diskette, that is IBM PC-DOS compatible with the following attributes:

- a. double sided
- b. double density

The external label must identify the submitter, the date submitted, the diskette number with identification of the total number of diskettes submitted and the descriptive narrative of the information contained within the records.

E. Maintenance Activities

1. The information submitted will be arrayed in procedure code order.

2. The information for each procedure code will be analyzed to determine the mean value of the charges submitted.

3. This revised information will be published as the update for the maximum allowable reimbursement schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19: (September 1993).

MAXIMUM DENTAL SERVICES REIMBURSEMENT ALLOWANCE FOR OFFICE OF WORKERS' COMPENSATION ADMINISTRATORS

CDT CODE	DESCRIPTION	MAXIMUM PAYMENT
00110	Initial oral examination	\$ 37
00120	Periodic oral examination	\$ 12
00130	Emergency oral examination	\$ 37
00135	Screening examination	\$ 12
00140	Comprehensive examination	\$ 50
00145	Postmortem examination	\$ 50
00199	Unspecified examination procedure	BR
00210	Intraoral-complete series (including bitewings)	\$ 50
00220	Intraoral-periapical-first film	\$ 12
00230	Intraoral-periapical-each additional film	\$ 6
00240	Intraoral-occlusal film	\$ 15
00250	Extraoral-first film	\$ 25
00260	Extraoral-each additional film	\$ 12
00270	Bitewing-single film	\$ 12
00272	Bitewings-two films	\$ 15
00273	Bitewings-three films	\$ 20
00274	Bitewings-four films	\$ 25
00275	Bitewings-each additional film	\$ 6
00290	Posterior-anterior or lateral skull and facial bone, survey film	\$ 62
00310	Sialography	\$ 50
00320	Temporomandibular joint arthrogram, including injection	\$ 249
00321	Other temporomandibular joint films, by report	BR
00322	Tomographic survey	\$ 187

00330	Panoramic film	\$ 25
00340	Cephalometric film	\$ 50
00399	Unspecified radiographs	BR
00415	Bacteriologic studies for determination of pathologic agents	BR
00425	Caries susceptibility tests	\$ 44
00430	Biopsy and examination of oral tissue, hard	\$ 80
00440	Biopsy and examination of oral tissue, soft	\$ 75
00441	Biopsy, excision of skin, subcutaneous tissue, mucous membrane	\$ 87
00442	Biopsy, tongue (posterior 1/3)	\$ 80
00443	Biopsy, tongue (anterior 2/3)	\$ 75
00445	Biopsy, gum	\$ 75
00446	Biopsy, palate	\$ 75
00447	Biopsy, needle, salivary gland	\$ 75
00448	Biopsy, incision, salivary gland	\$ 87
00460	Pulp vitality tests	\$ 12
00470	Diagnostic casts	\$ 31
00471	Diagnostic photographs	\$ 25
00472	Identification photographs	\$ 12
00480	Diagnostic mounting, occlusal	\$ 75
00481	Diagnostic mounting, axis location	\$ 199
00482	Diagnostic mounting, pantograph	\$ 199
00483	Diagnostic aid, nightguard	\$ 199
00501	Histopathologic examinations	\$ 75
00502	Other oral pathology procedures, by report	BR
00999	Unspecified diagnostic procedure, by report	BR
01105	Prophylaxis-adults, age 55 and older	\$ 37
01110	Prophylaxis-adult	\$ 37
01120	Prophylaxis-child	\$ 25
01125	Prophylaxis-children age 0-6	\$ 19
01199	Unspecified prophylaxis procedure	BR
01201	Topical application of fluoride (including prophylaxis)-child	\$ 31
01203	Topical application of fluoride (excluding prophylaxis)-child	\$ 12
01204	Topical application of fluoride (excluding prophylaxis)-adult	\$ 12
01205	Topical application of fluoride (including prophylaxis)-adult	\$ 50
01210	Topical application of sodium fluoride, four treatments (excluding prophylaxis)	\$ 50
01211	Topical application of sodium fluoride, four treatments (including prophylaxis)	\$ 75
01220	Topical application of stannous fluoride, one treatment (excluding prophylaxis)	\$ 25
01221	Topical application of stannous fluoride, one treatment (including prophylaxis)	\$ 62
01230	Topical application of acid fluoride phosphate, one treatment (excluding prophylaxis)	\$ 25
01231	Topical application of acid fluoride phosphate, one treatment (including prophylaxis)	\$ 62
01310	Nutritional counseling for the control of dental disease	\$ 30
01330	Oral hygiene instruction	\$ 12
01340	Training in preventive dental care periodontics only	\$ 37
01350	Topical application of sealants, per quadrant	\$ 37
01351	Sealant-per tooth	\$ 37
01360	Plaque and tissue indices	BR
01370	Group oral health counseling (per 15 minutes)	\$ 19
01399	Unspecified hygiene procedure	BR
01510	Space maintainer-fixed-unilateral	\$ 100
01511	Space maintainer-fixed-lingual or palatal arch	\$ 125
01512	Space maintainer-fixed-distal shoe	\$ 100
01515	Space maintainer-fixed-bilateral	\$ 150
01520	Space maintainer-removable-unilateral	\$ 125
01525	Space maintainer-removable-bilateral	\$ 174
01550	Recementation of space maintainer	\$ 15
01555	Removable acrylic	\$ 100
01560	Additional clasps, activating wires	BR

01599	Unspecified type of space management	BR	02751	Crown restorations-porcelain fused to predominantly base metal	\$ 399
02110	Amalgam restorations-one surface, primary	\$ 25	02752	Crown restorations-porcelain fused to noble metal	\$ 449
02120	Amalgam restorations-two surfaces, primary	\$ 37	02790	Crown restorations-full cast high noble metal	\$ 474
02130	Amalgam restorations-three surfaces, primary	\$ 50	02791	Crown restorations-full cast predominantly base metal	\$ 349
02131	Amalgam restorations-four or more surfaces, primary	\$ 56	02792	Crown restorations-full cast noble metal	\$ 399
02140	Amalgam restorations-one surface, permanent	\$ 50	02810	Crown restorations-3/4 cast metallic	\$ 474
02150	Amalgam restorations-two surfaces, permanent	\$ 75	02830	Crown-stainless steel-prefabricated	\$ 100
02160	Amalgam restorations-three surfaces, permanent	\$ 93	02840	Temporary or emergency (fractured tooth)	\$ 100
02161	Amalgam restorations-four or more surfaces, permanent	\$ 125	02891	Cast post and core, in addition to crown	\$ 199
02170	Amalgam-pin retention	\$ 125	02892	Steel post and composite or amalgam in addition to crown	\$ 125
02190	Pin retention, exclusive of amalgam	\$ 12	02899	Unspecified crown procedure	BR
02199	Unspecified amalgam procedure	BR	02910	Recement inlay	\$ 37
02210	Silicate cement-per restoration	\$ 50	02920	Recement crown	\$ 37
02310	Acrylic or plastic	\$ 50	02930	Prefabricated stainless steel crown-primary tooth	\$ 100
02315	Acrylic, plastic or composite (pin retained)	\$ 100	02931	Prefabricated stainless steel crown-permanent tooth	\$ 150
02320	Acrylic or plastic, incisal edge	\$ 100	02932	Prefabricated resin crown	\$ 75
02330	Resin restorations-one surface, anterior	\$ 50	02933	Prefabricated stainless steel crown with resin window	\$ 112
02331	Resin restorations-two surfaces, anterior	\$ 75	02940	Sedative filling	\$ 37
02332	Resin restorations-three surfaces, anterior	\$ 87	02950	Core build-up, including any pins	\$ 150
02334	Pin retention, exclusive of composite resin	\$ 12	02951	Pin retention-per tooth, in addition to restoration	\$ 25
02335	Resin restorations-four or more surfaces or involving incisal angle (anterior)	\$ 100	02952	Cast post and core in addition to crown	\$ 199
02336	Composite resin crown-anterior-primary	\$ 50	02953	Cast post as part of crown	\$ 125
02337	Composite resin, light, two surfaces	\$ 75	02954	Prefabricated post and core in addition to crown	\$ 125
02338	Composite resin, light, three surfaces	\$ 87	02955	Intermediate base	\$ 12
02340	Acid etch	\$ 12	02960	Labial veneer (laminate)-chairside	\$ 150
02345	Composite resin, anterior, class 3	\$ 87	02961	Labial veneer (resin laminate)-laboratory	\$ 249
02346	Composite resin, anterior, class 4	\$ 100	02962	Labial veneer (porcelain laminate)-laboratory	\$ 249
02347	Composite resin, anterior, class 5	\$ 112	02970	Temporary crown (fractured tooth)	\$ 100
02350	Glazing composite	\$ 25	02980	Crown repair, by report	BR
02351	Operative sealant	\$ 25	02999	Unspecified restorative procedure, by report	BR
02380	Resin restorations-one surface, posterior-primary	\$ 25	03110	Pulp cap-direct (excluding final restoration)	\$ 31
02381	Resin restorations-two surfaces, posterior-primary	\$ 37	03120	Pulp cap-indirect (excluding final restoration)	\$ 25
02382	Resin restorations-three or more surfaces, posterior-primary	\$ 50	03130	Recalcification	BR
02385	Resin restorations-one surface, posterior-permanent	\$ 50	03220	Therapeutic pulpotomy (excluding final restoration)	\$ 75
02386	Resin restorations-two surfaces, posterior-permanent	\$ 100	03230	Pulpectomy	\$ 75
02387	Resin restorations-three or more surfaces, posterior-permanent	\$ 125	03310	Root canal therapy, anterior (excluding final restoration)	\$ 199
02399	Unspecified procedure	BR	03311	One canal-primary tooth (excluding final restoration)	\$ 100
02410	Gold foil restorations-one surface	\$ 199	03320	Root canal therapy, bicuspid (excluding final restoration)	\$ 249
02420	Gold foil restorations-two surfaces	\$ 361	03321	Two canals-primary tooth	\$ 150
02430	Gold foil restorations-three surfaces	\$ 523	03330	Root canal therapy, molar (excluding final restoration)	\$ 349
02499	Unspecified gold foil restoration	BR	03331	Three canals-primary tooth	\$ 174
02510	Inlay restorations-metallic-one surface	\$ 150	03340	Root canal therapy, four or more canals-permanent tooth (excluding final restoration)	\$ 399
02520	Inlay restorations-metallic-two surfaces	\$ 249	03341	Four or more canals-primary tooth	\$ 199
02530	Inlay restorations-metallic-three surfaces	\$ 299	03346	Retreatment-anterior, by report	BR
02540	Onlay restorations-metallic-per tooth (in addition to inlay)	\$ 100	03347	Retreatment-bicuspid, by report	BR
02550	Inlay, gold, restore fractured anterior tooth	\$ 249	03348	Retreatment-molar, by report	BR
02560	Pinledge restoration	\$ 374	03350	Apexification (per treatment visit)	\$ 75
02599	Unspecified gold inlay procedure	BR	03351	Apexification/recalcification-initial visit (apical closure/calcific repair of perforations, root resorption, etc.)	\$ 100
02610	Inlay restorations-porcelain/ceramic-one surface	\$ 199	03352	Apexification/recalcification-interim medication replacement (apical closure/calcific repair of perforations, root resorption, etc.)	\$ 100
02620	Inlay restorations-porcelain/ceramic-two surfaces	\$ 324	03353	Apexification/recalcification-final visit (includes completed root canal therapy-apical closure/calcific repair of perforations, root resorption, etc.)	\$ 199
02630	Inlay restorations-porcelain/ceramic-three surfaces	\$ 24	03399	Unspecified root canal procedure	BR
02640	Onlay-porcelain/ceramic-per tooth (in addition to inlay)	\$ 75	03410	Apicoectomy/periradicular surgery-anterior	\$ 174
02650	Inlay-composite/resin-one surface (laboratory processed)	\$ 199	03421	Apicoectomy/periradicular surgery-bicuspid (first root)	\$ 187
02651	Inlay-composite/resin-two surfaces (laboratory processed)	\$ 324	03425	Apicoectomy/periradicular surgery-molar (first root)	\$ 199
02652	Inlay-composite/resin-three surfaces (laboratory processed)	\$ 424	03426	Apicoectomy/periradicular surgery-(each additional root)	\$ 75
02660	Onlay-composite/resin-per tooth (in addition to inlay-laboratory processed)	\$ 75	03427	Apicoectomy-performed in conjunction with endodontic procedure (per root)	\$ 75
02710	Crown restorations-resin (laboratory)	\$ 249	03430	Retrograde filling-per root	\$ 75
02711	Crown-plastic, prefabricated	\$ 75	03440	Apical curettage	\$ 150
02720	Crown restorations-resin with high noble metal	\$ 498	03450	Root amputation-per root	\$ 125
02721	Crown restorations-resin with predominantly base metal	\$ 374			
02722	Crown restorations-resin with noble metal	\$ 424			
02740	Crown restorations-porcelain/ceramic substrate	\$ 498			
02750	Crown restorations-porcelain fused to high noble metal	\$ 548			

03460	Endodontic endosseous implant	BR	05216	Lower partial dentures-high noble cast base with acrylic saddles (including any conventional clasps, rests, and teeth)	\$ 997
03470	Intentional replantation (including necessary splinting)	BR			
03499	Unspecified periapical services	BR	05280	Removable unilateral partial denture-one piece high noble casting, clasps attachments-per unit (including pontics)	\$ 598
03910	Surgical procedure for isolation of tooth with rubber dam	\$ 50	05281	Removable unilateral partial denture-one piece cast metal (including clasps and pontics)	\$ 498
03920	Hemisection (including any root removal), not including root canal therapy	\$ 100	05310	Each additional clasp with rest	\$ 62
03940	Recalcifications of repair (perforations, root resorption, etc.)	\$ 75	05399	Unspecified denture procedure	BR
03950	Canal preparation and fitting of preformed dowel or post	\$ 75	05410	Adjust complete denture-upper	\$ 50
03960	Bleaching of discolored tooth	\$ 100	05411	Adjust complete denture-lower	\$ 50
03970	Emergency procedures	BR	05421	Adjust partial denture-upper	\$ 50
03999	Unspecified endodontic procedure, by report	BR	05422	Adjust partial denture-lower	\$ 50
04110	Periodontal exam	\$ 50	05510	Repair broken complete denture base	\$ 75
04210	Gingivectomy or gingivoplasty-per quadrant	\$ 150	05520	Replace missing or broken teeth-complete denture (each tooth)	\$ 50
04211	Gingivectomy or gingivoplasty-per tooth	\$ 50	05610	Repair resin saddle or base	\$ 75
04220	Gingival curettage, surgical, per quadrant, by report	BR	05620	Repair cast framework	\$ 150
04221	Gingival curettage-per tooth	\$ 50	05630	Repair or replace broken clasp	\$ 150
04230	Distal wedge procedure	\$ 150	05640	Replace broken teeth-per tooth	\$ 75
04240	Gingival flap procedure, including root planing-per quadrant	\$ 150	05650	Add tooth to existing partial denture	\$ 75
04249	Crown lengthening-hard and soft tissue, by report	BR	05660	Add clasp to existing partial denture tooth, involving clasp or abutment	\$ 125
04250	Mucogingival surgery-per quadrant	\$ 199	05670	Reattach damaged clasp on denture	\$ 75
04251	Mucogingival surgery-per tooth	\$ 125	05680	Replace broken clasp with new clasp on denture	\$ 125
04260	Osseous surgery (including flap entry and closure-per quadrant)	\$ 249	05690	Each additional clasp with rest	\$ 62
04261	Bone replacement graft-single site including flap entry and closure)	BR	05695	Precision attachment, partial denture	BR
04262	Bone replacement graft-multiple sites (including flap entry and closure)	BR	05699	Unspecified denture repair procedure	BR
04268	Guided tissue regeneration (includes the surgery and re-entry)	BR	05710	Rebase complete upper denture	\$ 249
04270	Pedicle soft tissue graft procedure	\$ 150	05711	Rebase complete lower denture	\$ 249
04271	Free soft tissue graft procedure (including donar site)	\$ 199	05720	Rebase upper partial denture	\$ 199
04272	Apically repositioned flap procedure	\$ 199	05721	Rebase lower partial denture	\$ 199
04280	Periodontal pulpal procedures (excluding root canal)	BR	05730	Reline upper complete denture (chairside)	\$ 150
04320	Provisional splinting-intracoronal	\$ 25	05731	Reline lower complete denture (chairside)	\$ 150
04321	Provisional splinting-extracoronal	\$ 25	05740	Reline upper partial denture (chairside)	\$ 125
04330	Occlusal adjustment (limited) per tooth-up to 8 teeth)	\$ 12	05741	Reline lower partial denture (chairside)	\$ 125
04331	Occlusal adjustment (complete)	\$ 249	05750	Reline upper complete denture (laboratory)	\$ 199
04340	Root planing (entire mouth)	\$ 498	05751	Reline lower complete denture (laboratory)	\$ 199
04341	Periodontal scaling and root planing-per quadrant	\$ 125	05760	Reline upper partial denture (laboratory)	\$ 199
04345	Periodontal scaling performed in the presence of gingival inflammation	\$ 50	05761	Reline lower partial denture (laboratory)	\$ 199
04350	Tooth movement for periodontal purposes	BR	05810	Interim complete denture (upper)	\$ 299
04360	Special periodontal appliances (including occlusal guards)	\$ 299	05811	Interim complete denture (lower)	\$ 299
04370	Re-evaluation of periodontic therapy	BR	05820	Interim partial denture (upper)	\$ 249
04910	Periodontal maintenance procedures (following active therapy)	\$ 50	05821	Interim partial denture (lower)	\$ 249
04920	Unscheduled dressing change (by someone other than treating dentist)	\$ 50	05830	Obturator for surgically excised palatal tissue	\$ 312
04999	Unspecified periodontal procedure, by report	BR	05840	Obturator for deficient velopharyngeal function (cleft palate)	\$ 1,246
05110	Complete upper dentures	\$ 623	05850	Tissue conditioning, upper-per denture unit	\$ 50
05120	Complete lower dentures	\$ 623	05851	Tissue conditioning, lower-per denture unit	\$ 50
05130	Immediate upper dentures	\$ 685	05860	Overdenture-complete, by report	BR
05140	Immediate lower dentures	\$ 685	05861	Overdenture-partial, by report	BR
05211	Upper partial dentures-resin base (including any conventional clasps, rests and teeth)	\$ 249	05862	Precision attachment, by report (removable prosthodontics)	BR
05212	Lower partial dentures-resin base (including any conventional clasps, rests and teeth)	\$ 249	05899	Unspecified removable prosthodontic procedure, by report	BR
05213	Upper partial dentures-cast metal base with resin saddles (including any conventional clasps, rests and teeth)	\$ 623	05911	Facial moulage (sectional)	\$ 100
05214	Lower partial dentures-cast metal base with resin saddles (including any conventional clasps, rests and teeth)	\$ 623	05912	Facial moulage (complete)	\$ 150
05215	Upper partial dentures-high noble cast base with acrylic saddles (including any conventional clasps, rests and teeth)	\$ 997	05913	Nasal prosthesis	\$ 2,492
			05914	Auricular prosthesis	\$ 2,492
			05915	Orbital prosthesis	\$ 3,365
			05916	Ocular prosthesis	\$ 3,489
			05917	Composite facial prosthesis	BR
			05918	Replacement prosthesis (note: replacement is usually established at one-half the original value)	BR
			05919	Facial prosthesis	BR
			05920	Ocular implant	BR
			05921	Orbital implant	BR
			05922	Nasal septal prosthesis	\$ 1,620
			05923	Ocular prosthesis, interim	\$ 1,994
			05924	Cranial prosthesis	BR
			05925	Facial augmentation implant prosthesis	BR

05926	Nasal prosthesis, replacement	\$ 1,246	06751	Bridge retainer-crown-porcelain fused to predominantly base metal	\$ 399
05927	Auricular prosthesis, replacement	\$ 1,246	06752	Bridge retainer-crown-porcelain fused to noble metal	\$ 498
05928	Orbital prosthesis, replacement	\$ 1,682	06780	Bridge retainer-crown-3/4 cast high noble metal	\$ 474
05929	Facial prosthesis, replacement	BR	06790	Bridge retainer-crown-full cast high noble metal	\$ 474
05931	Obturator prosthesis, surgical	\$ 798	06791	Bridge retainer-crown-full cast predominantly base metal	\$ 349
05932	Obturator prosthesis, definitive	\$ 1,869	06792	Bridge retainer-crown-full cast noble metal	\$ 424
05933	Obturator prosthesis, modification	\$ 374	06930	Recement bridge	\$ 50
05934	Mandibular resection prosthesis with guide flange	\$ 1,869	06940	Stress breaker	\$ 125
05935	Mandibular resection prosthesis without guide flange	\$ 1,869	06950	Precision attachment (fixed prosthodontics)	\$ 199
05936	Obturator prosthesis, interim	\$ 685	06961	<i>Nightguard</i>	\$ 199
05951	Feeding aid	\$ 748	06970	Cast post and core in addition to bridge retainer	\$ 199
05952	Speech aid prosthesis, pediatric	\$ 748	06971	Cast post as part of bridge retainer	\$ 199
05953	Speech aid prosthesis, adult	\$ 748	06972	Prefabricated post and core in addition to bridge retainer	\$ 150
05954	Palatal augmentation prosthesis	BR	06973	Core build-up for retainer, including any pins	\$ 199
05955	Palatal lift prosthesis, definitive	\$ 1,620	06975	Coping-metal	BR
05956	<i>Obturator</i>	BR	06980	Bridge repair, by report	BR
05957	<i>Speech bulb</i>	\$ 1,869	06999	Unspecified fixed prosthodontic procedure, by report	BR
05958	Palatal lift prosthesis, interim	\$ 947	07110	Extraction single tooth	\$ 50
05959	Palatal lift prosthesis, modification	\$ 299	07120	Extraction each additional tooth	\$ 50
05960	Speech aid prosthesis, modification	\$ 199	07130	Root removal-exposed roots	BR
05982	Surgical stent	\$ 299	07210	Surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth	\$ 100
05983	Radiation carrier	BR	07220	Removal of impacted tooth-soft tissue	\$ 199
05984	Radiation shield	BR	07230	Removal of impacted tooth-partially bony	\$ 249
05985	Radiation cone locator	\$ 698	07240	Removal of impacted tooth-completely bony	\$ 249
05986	Fluoride gel carrier	\$ 75	07241	Removal of impacted tooth-completely bony, with unusual surgical	\$ 249
05987	Commissure splint	BR	07250	Surgical removal of residual tooth roots (cutting procedure)	\$ 100
05988	Surgical splint	BR	07260	Oral antral fistula closure	\$ 299
05999	Unspecified maxillofacial prosthesis, by report	BR	07261	<i>Antrotomy, radical, unilateral (caldwell-luc)</i>	\$ 349
06030	Endosseous implant (in the bone)	\$ 997	07262	<i>Antrotomy, radical, bilateral (caldwell-luc)</i>	\$ 598
06040	Subperiosteal implant	BR	07270	Tooth re-implantation and/or stabilization of accidentally evulsed or displaced tooth and/or alveolus	\$ 125
06050	Transosseous implant	\$ 1,495	07271	Tooth implantation	\$ 299
06053	<i>Mandibular staple implant</i>	\$ 2,492	07272	Tooth transplantation	\$ 249
06055	Implant connecting bar	\$ 935	07280	Surgical exposure of impacted or unerupted tooth for orthodontic reasons (including orthodontic attachments)	\$ 150
06080	Implant maintenance procedures, including removal of prosthesis, cleansing of prosthesis and abutments, reinsertion of prosthesis	BR	07281	Surgical exposure of impacted or unerupted tooth to aid eruption	\$ 100
06090	Repair implant	BR	07285	Biopsy of oral tissue-hard	\$ 100
06100	Implant removal	BR	07286	Biopsy of oral tissue-soft	\$ 100
06199	Unspecified implant procedure	BR	07290	Surgical repositioning of teeth	\$ 299
06210	Bridge pontic-cast high noble metal	\$ 498	07291	Transseptal fibrotomy	\$ 50
06211	Bridge pontic-cast predominantly base metal	\$ 349	07310	Alveoloplasty in conjunction with extractions-per quadrant	\$ 105
06212	Bridge pontic-cast noble metal	\$ 399	07320	Alveoloplasty not in conjunction with extractions-per quadrant	\$ 132
06220	<i>Slotted facing</i>	\$ 100	07340	Vestibuloplasty-ridge extension (secondary epithelialization)	\$ 623
06230	<i>Slotted pontic</i>	\$ 100	07350	Vestibuloplasty-ridge extension (including soft tissue grafts, muscle reattachments, revision of soft tissue attachment, and management of hypertrophied and hyperplastic tissue)	\$ 997
06235	<i>Pin facing</i>	\$ 100	07360	<i>Tuberosity, reduction</i>	\$ 100
06240	Bridge pontic-porcelain fused to high noble metal	\$ 548	07370	<i>Myohyoid ridge, reduction</i>	\$ 299
06241	Bridge pontic-porcelain fused to predominantly base metal	\$ 449	07410	Radical excision-lesion diameter up to 1.25 cm	\$ 125
06242	Bridge pontic-porcelain fused to noble metal	\$ 498	07420	Radical excision-lesion diameter over 1.25 cm	\$ 174
06250	Bridge pontic-resin with high noble metal	\$ 498	07425	<i>Excision pericoronal gingiva</i>	\$ 62
06251	Bridge pontic-resin with predominantly base metal	\$ 349	07428	<i>Glosseoplasty (tongue repair)</i>	\$ 199
06252	Bridge pontic-resin with noble metal	\$ 449	07430	Excision of benign tumor-lesion diameter up to 1.25 cm	\$ 162
06299	<i>Unspecified pontic procedure</i>	BR	07431	Excision of benign tumor-lesion diameter over 1.25 cm	\$ 249
06520	Inlay retainer-metallic-two surfaces	\$ 249	07440	Excision of malignant tumor-lesion diameter up to 1.25 cm	\$ 798
06530	Inlay retainer-metallic-three or more surfaces	\$ 299	07441	Excision of malignant tumor-lesion diameter over 1.25 cm	BR
06540	Onlay retainer-metallic-per tooth (in addition to inlay)	\$ 498			
06545	Retainer-cast metal for acid etched fixed prosthesis	BR			
06610	<i>Replace broken pin facing with slotted or other facing</i>	\$ 75			
06620	<i>Replace broken facing where post is intact</i>	\$ 75			
06630	<i>Replace broken facing where post backing is broken</i>	\$ 100			
06640	<i>Replace broken facing with acrylic</i>	\$ 75			
06650	<i>Replace broken pontic</i>	\$ 75			
06699	<i>Unspecified repair procedure</i>	BR			
06720	Bridge retainer-crown-resin with high noble metal	\$ 498			
06721	Bridge retainer-crown-resin with predominantly base metal	\$ 374			
06722	Bridge retainer-crown-resin with noble metal	\$ 424			
06740	<i>Crown-porcelain</i>	\$ 498			
06750	Bridge retainer-crown-porcelain fused to high noble metal	\$ 598			

07450	Removal of odontogenic cyst or tumor-lesion diameter up to 1.25 cm	\$ 249	07865	Arthroplasty	\$ 2,094
07451	Removal of odontogenic cyst or tumor-lesion diameter over 1.25 cm	\$ 399	07870	Arthrocentesis temporomandibular joint	\$ 100
07460	Removal of nonodontogenic cyst or tumor-lesion diameter up to 1.25 cm	\$ 249	07872	Arthroscopy-diagnosis, with or without biopsy	\$ 648
07461	Removal of nonodontogenic cyst or tumor-lesion diameter over 1.25 cm	\$ 399	07873	Arthroscopy-surgical, lavage and lysis of adhesions	\$ 710
07465	Destruction of lesion(s) by physical or chemical method, by report	BR	07874	Arthroscopy-surgical, disc repositioning and stabilization	\$ 897
07470	Removal of exostosis-maxilla or mandible	\$ 187	07875	Arthroscopy-surgical, synovectomy	\$ 960
07480	Partial ostectomy (guttering or saucerization)	\$ 386	07876	Arthroscopy-surgical, discectomy	\$ 997
07490	Radical resection of mandible with bone graft	\$ 4,985	07877	Arthroscopy-surgical, debridement	\$ 922
07510	Incision and drainage of abscess-intraoral soft tissue	\$ 100	07880	Occlusal orthotic device, by report temporomandibular joint	BR
07520	Incision and drainage of abscess-extraoral soft tissue	\$ 150	07899	Unspecified TMB therapy	BR
07530	Removal of foreign body, skin, or subcutaneous areolar tissue	BR	07910	Suture of recent small wounds up to 5 cm	\$ 32
07540	Removal of reaction-producing foreign bodies-musculoskeletal system	\$ 150	07911	Complicated suture-up to 5 cm	\$ 65
07550	Sequestrectomy for osteomyelitis	\$ 436	07912	Complicated suture-greater than 5 cm	\$ 12
07560	Maxillary sinusotomy for removal of tooth fragment or foreign body	\$ 324	07920	Skin grafts (identify defect covered, location, and type of graft)	BR
07610	Treatment of fracture-simple-maxilla-open reduction (teeth immobilized if present)	\$ 997	07930	Injection of trigeminal nerve branches for destruction	\$ 349
07620	Treatment of fracture-simple-maxilla-closed reduction (teeth immobilized if present)	\$ 872	07931	Avulsion of trigeminal nerve branches	BR
07630	Treatment of fracture-simple-mandible-open reduction (teeth immobilized if present)	\$ 1,122	07940	Osteoplasty-for orthognathic deformities	\$ 1,495
07640	Treatment of fracture-simple-mandible-closed reduction (teeth immobilized if present)	\$ 997	07941	Osteotomy-ramus, closed	\$ 997
07650	Treatment of fracture-simple-malar and/or zygomatic arch-open reduction	\$ 623	07942	Osteotomy-ramus, open	\$ 1,495
07660	Treatment of fracture-simple-malar and/or zygomatic arch-closed	\$ 498	07943	Osteotomy-ramus, open with bone graft	\$ 1,869
07670	Treatment of fracture-simple-alveolus-stabilization of teeth, open	\$ 498	07944	Osteotomy-segmented or subapical-per sextant or quadrant	\$ 1,246
07680	Treatment of fracture-simple-facial bones-complicated reduction with fixation and multiple surgical approaches	\$ 1,246	07945	Osteotomy-body of mandible	\$ 1,246
07710	Treatment of fracture-compound-maxilla-open reduction	\$ 1,246	07946	Lefort I (maxilla-total)	\$ 3,115
07720	Treatment of fracture-compound-maxilla-closed reduction	\$ 1,097	07947	Lefort I (maxilla-segmented)	\$ 3,115
07730	Treatment of fracture-compound-mandible-open reduction	\$ 1,421	07948	Lefort II or lefort III (osteoplasty of facial bones for midface hypoplasia or retrusion)-without bone graft	\$ 3,489
07740	Treatment of fracture-compound-mandible-closed reduction	\$ 1,122	07949	Lefort II or lefort III-with bone graft	BR
07750	Treatment of fracture-compound-malar and/or zygomatic arch-open reduction	\$ 785	07950	Oseous, osteoperiosteal, periosteal, or cartilage graft of the mandible-autogenous or nonautogenous	BR
07760	Treatment of fracture-compound-malar and/or zygomatic arch-closed reduction	\$ 648	07955	Repair of maxillofacial soft and hard tissue defects	BR
07770	Treatment of fracture-compound-alveolus-stabilization of teeth, open reduction splinting	\$ 648	07960	Frenulectomy (frenectomy or frenotomy)-separate procedure	\$ 150
07780	Treatment of fracture-compound-facial bones-complicated reduction with fixation and multiple surgical approaches	BR	07970	Excision of hyperplastic tissue-per arch	\$ 299
07805	Injection (each)	\$ 25	07971	Excision of pericoronal gingiva	\$ 150
07810	Open reduction of dislocation temporomandibular joint	\$ 1,570	07980	Sialolithotomy	\$ 299
07820	Closed reduction of dislocation temporomandibular joint	\$ 237	07981	Excision of salivary gland	\$ 498
07825	Closed reduction of dislocation temporomandibular joint, subsequent	BR	07982	Sialodochoplasty	\$ 710
07830	Manipulation under anesthesia temporomandibular joint	\$ 125	07983	Closure of salivary fistula	\$ 299
07840	Condylectomy temporomandibular joint	\$ 1,495	07990	Emergency tracheotomy	\$ 623
07850	Surgical discectomy; with/without implant temporomandibular joint	\$ 748	07991	Coronoidectomy	\$ 997
07852	Disc repair	\$ 897	07992	Eminectomy	\$ 1,246
07854	Synovectomy	\$ 698	07993	Implant-facial bones (homologous, heterologous, or alloplastic)	\$ 748
07856	Myotomy	BR	07994	Implant-chin (homologous, heterologous, or alloplastic)	\$ 748
07858	Joint reconstruction	\$ 2,791	07999	Unspecified oral surgery procedure, by report	BR
07860	Arthroscopy temporomandibular joint	\$ 748	08110	Removable appliance therapy for tooth guidance	\$ 174
			08120	Fixed appliance therapy for tooth guidance	\$ 199
			08210	Removable appliance therapy to control harmful habits	\$ 150
			08220	Fixed appliance therapy to control harmful habits	\$ 174
			08360	Removable appliance therapy-interceptive orthodontic treatment	\$ 174
			08370	Fixed appliance therapy-interceptive orthodontic treatment	\$ 199
			08460	Class I malocclusion-transitional dentition	\$ 349
			08461	Class I malocclusion, 13-24 months	\$ 698
			08462	Class I malocclusion, 25 or more months	\$ 922
			08470	Class II malocclusion-transitional dentition	\$ 498
			08471	Class II malocclusion, 13-24 months	\$ 798
			08472	Class II malocclusion, 25 or more months	\$ 997
			08480	Class III malocclusion-transitional dentition	\$ 548
			08481	Class III malocclusion, 13-24 months	\$ 847
			08482	Class III malocclusion, 25 or more months	\$ 1,047
			08560	Class I malocclusion-permanent dentition	\$ 997
			08561	Class I malocclusion, 13-24 months	\$ 1,944
			08562	Class I malocclusion, 25 or more months	\$ 2,343
			08570	Class II malocclusion-permanent dentition	\$ 1,097

08571	Class II malocclusion, 13-24 months	\$ 1,994
08572	Class II malocclusion, 25 or more months	\$ 2,442
08580	Class III malocclusion-permanent dentition	\$ 1,097
08581	Class III malocclusion, 13-24 months	\$ 1,994
08582	Class III malocclusion, 25 or more months	\$ 2,442
08650	Treatment for the atypical or extended skeletal case	BR
08750	Post-treatment stabilization	\$ 1,994
08999	Unspecified orthodontic procedure, by report	BR
09110	Palliative (emergency) treatment of dental pain-minor procedures	\$ 50
09210	Local anesthesia not in conjunction with operative or surgical procedures	\$ 12
09211	Regional block anesthesia	\$ 10
09212	Trigeminal division block anesthesia	\$ 12
09215	Local anesthesia	\$ 7
09220	General anesthesia-first 30 minutes	\$ 137
09221	General anesthesia-each additional 15 minutes	\$ 50
09230	Analgesia	\$ 22
09240	Intravenous sedation	\$ 50
09310	Consultation (diagnostic service provided by dentist or physician other than practitioner providing treatment)	\$ 75
09410	House call	\$ 75
09420	Hospital call	\$ 75
09430	Office visit for observation (during regularly scheduled hours)-no other service performed	\$ 30
09440	Office visit-after regularly scheduled hours	\$ 75
09610	Therapeutic drug injection, by report	\$ 25
09630	Other drugs and/or medicaments, by report	BR
09907	Emergency drug injection	BR
09910	Application of desensitizing medicaments	\$ 25
09920	Behavior management, by report	BR
09930	Treatment of complications (post-surgical) unusual circumstances, by report	BR
09940	Occlusal guards, by report	BR
09941	Fabrication of athletic mouthguards	\$ 100
09950	Occlusion analysis-mounted case	\$ 204
09951	Occlusal adjustment-limited	\$ 125
09952	Occlusal adjustment-complete	\$ 199
09999	Unspecified adjunctive procedure, by report	BR

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Dental Care Services

Alvin J. Walsh
Director

RULE

Department of Public Safety and Corrections Office of Alcoholic Beverage Control

Wholesale Dealer Violations - Notices, Hearings and Findings (LAC 55:VII.109)

Under the authority of the Alcoholic Beverage Code, particularly R.S. 26:741 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the commissioner has amended LAC 55:VII.109. This rule amends procedures to be followed by wholesale dealers for cash sales of malt beverages.

Title 55 PUBLIC SAFETY

Part VII. Alcoholic Beverage Control Subpart 1. Beer and Liquor Regulations

Chapter 1. Beer Cash Regulations

§109. Wholesale Dealer Violations - Notices, Hearings and Findings

* * *

B. Whenever the commissioner has reason to believe a violation of R.S. 26:741, or these regulations has been committed by a wholesale dealer, he shall determine, according to the available records, if it is the first violation, or if prior violations have occurred, and proceed according to the following:

1. First Violation

The commissioner shall send a warning notice to the wholesale dealer.

2. Second Violation

a. The commissioner shall send a notice to the wholesale dealer that the records show that since the first violation was found, the wholesaler has committed another violation and that a hearing will be held at a specified time and place.

b. If, at the hearing on the second violation, the commissioner is satisfied that the violation did occur within one year of the first violation, then the permit of the violator may be suspended for a period of two days exclusive of Sundays, election days and legal holidays and the violator may be fined not less than \$50 but not more than \$500.

3. Third Violation

a. The commissioner shall send a notice to the wholesale dealer that the records show that since the second violation was found, the wholesaler has committed another violation and that a hearing will be held at a specified time and place.

b. If, at the hearing on the third violation, the commissioner is satisfied that the violation did occur within one year of the first violation, then the violator may be suspended for a period of five days, exclusive of Sundays, election days and legal holidays and the violator may be fined not less than \$250 but not more than \$1,000.

4. Fourth Violation

a. The commissioner shall send a notice to the wholesale dealer that the records show that since the third violation was found, the wholesaler has committed another violation and that a hearing will be held at a specified time and place.

b. If, at the hearing on the fourth violation, the commissioner is satisfied that the violation did occur within one year of the first violation, then the violator may be suspended for a period of ten days, exclusive of Sundays, election days and legal holidays and the violator may be fined not less than \$500 but not more than \$2,500.

C. When there are violations found subsequent to the fourth violation, the commissioner will likewise set hearing as in the third and fourth violations, and if after the hearing, the commissioner is satisfied that the violation did occur within one year of the first violation, then the violator may be suspended for a period of 90 days, or the revocation of the permit holder may be ordered, and, in addition to either, the

violator may be fined not less than \$3,000 but not more than \$10,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:741.

HISTORICAL NOTE: Adopted by the Board of Alcoholic Beverage Control, 1948, amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19: (September 1993).

Raymond E. Holloway
Assistant Secretary

RULE

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

Riverboat Gaming License, Permit, Compliance, Inspections and Investigations (LAC 42:XIII.Chapters 17-23)

In accordance with R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, has adopted final rules and regulations regarding licensing, permitting, compliance, inspections and investigations of Riverboat Gaming, LAC 42:XIII.Chapters 17-23.

These newly adopted rules may be viewed in their entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, phone (504) 342-5015.

Paul W. Fontenot
Deputy Secretary

RULE

Department of Revenue and Taxation Research and Technical Services Division

Substitute Form Printing Specifications
for Form W-2 and Copy 2 (LAC 61:I.1510)

Under the authority of R.S. 47:112(L) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Research and Technical Services Division has adopted a rule concerning private printing of substitute form W-2, employee wage and tax statement, Copy 2 (L-2 state copy).

This regulation establishes the requirements and specifications for the reproduction of paper substitutes of Form W-2, Wage and Tax Statement, Copy 2, furnished to payees who are required to file a State of Louisiana individual income tax return for reporting amounts paid during the 1993 calendar year. Paper substitutes that conform totally to the

specifications and requirements contained in this rule may be privately printed without prior approval.

These requirements are needed to accommodate the new automated document processing equipment. With the exceptions of the paper weight requirement and MICR ink prohibition, all state document format and layout specifications are the same as the current Internal Revenue Service requirements.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 15. Income: Withholding Tax

§1510. Requirements for Substitute Form W-2, Copy 2, Furnished to Payees

A. All payers (employers) must furnish payees (employees) with at least three copies of the Form W-2. This regulation pertains to Copy 2, to be filed with the employee's state income tax return. Any privately printed substitute Form W-2, Copy 2, must conform to the specifications of this rule in order to be acceptable to the Louisiana Department of Revenue and Taxation.

B. Definitions. For the purpose of this rule, the following terms are defined:

Copy 2—the state copy of the employee wage and tax statement or Form L-2.

Substitute Form W-2—any form not printed and provided by the Internal Revenue Service (IRS).

C. Specific Requirements - Form W-2, Copy 2

1. Form size and layout:

- a. the length should be at least 3½ inches but not more than 6½ inches;
- b. the width should be at least 5½ inches but not more than 8½ inches;
- c. the use of either a horizontal or a vertical format is permitted.

2. Paper type and weight:

- a. the paper must be white;
- b. the paper weight must be at least 14 pound (basis 17 x 22-500).

3. Print quality standards:

- a. the copy must be clearly legible;
- b. the copy must have the capability to be photocopied;
- c. fading must not be of such a degree as to preclude legibility and the ability to photocopy; and
- d. MICR ink cannot be used to print any portion of the form.

4. Document format:

a. federal core data boxes, containing information required by the IRS, must be printed in the same size, order, and arrangement as on the IRS printed form or as approved by the IRS. No boxes or other information may be printed to the right of this data. Federal core data boxes are as follows:

- i. Box 1 - Wages, tips, other compensation;
- ii. Box 2 - Federal income tax withheld;
- iii. Box 3 - Social Security wages;
- iv. Box 4 - Social Security tax withheld;
- v. Box 5 - Medicare wages and tips; and
- vi. Box 6 - Medicare tax withheld.

b. state core data boxes contain information specifically required by the state and must be placed at the bottom of the form. State data boxes are as follows:

i. Box 16 - Employer's state and state identification number;

ii. Box 17 - state wages, tips, etc.; and

iii. Box 18 - state income tax withheld.

c. other federal data required to be present on the form in boxes similar to the core data boxes. These data boxes may be placed in any location, other than the location reserved for federal and state core data items:

i. Employer's name, address, and ZIP code;

ii. Employer identification number (EIN);

iii. Employee's Social Security number; and

iv. Employee's name, address, and ZIP code.

5. Document labeling

a. the form title and number may be printed at the top of the form;

b. the tax year must be clearly printed on the form;

c. the form should be labeled "Copy 2, to be filed with the employee's state income tax return."

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112(L).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Research and Technical Services Division, LR 19: (September 1993).

Ralph Slaughter
Secretary

RULE

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

**AFDC—Failure to Cooperate with IV-D
(LAC 67:III.1184)**

The Department of Social Services, Office of Family Support, has amended the LAC 67:III, Subpart 2, the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to 45 CFR 232.12 and the usually high rate of non-cooperation by clients, the department desires to define the common circumstances of non-cooperation with IV-D that result in sanctioning, that is, the needs of the recipient AFDC parent being removed from the AFDC grant due to failure to cooperate in the process of securing child support from an absent parent.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 2. Aid to Families with Dependent Children
(AFDC)**

**Chapter 11. Application, Eligibility, and Furnishing
Assistance**

**Subchapter F. Assignment of Rights to Support and
Cooperation in Establishing Paternity
and Securing Support**

§1184. Failure to Cooperate with IV-D

A. Sanctioning which results in removal of the recipient's needs from the AFDC grant includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office.

1. failure to keep two consecutive appointments;

2. failure or refusal to cooperate at an interview;

3. failure to appear for, or cooperate during, a court date or genetic testing.

B. The recipient who has failed to cooperate will be notified in writing of the sanctioning. The recipient's desire or intention to cooperate will not preclude removal from the grant. If possible, a third party payee will be found. Recipient's needs will be reinstated only upon cooperation with the IV-D program.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 232.12.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19: (September 1993).

Gloria Bryant-Banks
Secretary

RULE

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

**Project Independence-AFDC-Unemployed
Parent Participation (LAC 67:III.2910)**

The Department of Social Services, Office of Family Support, has amended LAC 67:III.2910 regarding the Job Opportunities and Basic Skills Training (JOBS) Program.

This action is necessary to correct information concerning participation in the JOBS Program and to change an option afforded to the state by federal regulations at 45 CFR 250.30. In Louisiana the JOBS Program is known as Project Independence.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 5. Job Opportunities and Basic Skills
Training Program**

Chapter 29. Organization

Subchapter B. Participation

§2910. Individual Participation Requirements

All AFDC recipients are mandatory participants unless determined exempt in accordance with 45 CFR 250.30 or 250.33.

1. Regulations at 45 CFR 250.30 (b)(9)(i) mandate that all non-exempt applicants and recipients with children over age three, or an age less than three but not less than one, participate in the JOBS program as an eligibility condition for

receipt of AFDC or AFDC-Unemployed Parent (AFDC-UP) benefits. Louisiana will exercise the option to require participation of parents with children over age one. This age limitation is overridden in the case of the custodial parent under age 20 who has not completed high school, since the legislation requires that such an individual participate in the education component of the program regardless of the age of the dependent child. Only one parent in an AFDC-UP case can be exempted for providing care for a child age one or under.

2. Regulations at 45 CFR 250.33 require that in any family eligible for AFDC by reason of the unemployment of the parent who is the principal wage earner, at least one parent must participate for a total of at least 16 hours per week in a work experience program or on-the-job training. The second parent can be placed in any component provided the first parent meets this 16 hour requirement.

3. Any parent under the age of 25 in an AFDC-Unemployed Parent (AFDC-UP) case, who has not completed high school or an equivalent course of education, is allowed to meet the 16 hour per week work-related requirement by participating in educational activities as defined at 45 CFR 250.44(a). Again, the second parent can be placed in any component activity provided the first parent meets this requirement.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 250.33, and 250.44.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19: (September 1993),

Gloria Bryant-Banks
Secretary

RULE

Department of Social Services Office of Family Support

Support Enforcement Services—Adjustment of Obligation (LAC 67:III.2512)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.2512, regarding Support Enforcement Services.

Pursuant to 45 CFR 303.8 regarding child support orders to be reviewed and adjusted, Support Enforcement Services (SES) is establishing a reasonable quantitative standard for petitioning for adjustment of an order.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter C. Formula for Support Obligation

§2512. Adjustment of Child Support Order

After a thorough review of circumstances, SES will refer a support order to court for modification or adjustment in accordance with the child support award guidelines, if calculation of the support obligation results in an increase or decrease of 25 percent of the current support obligation amount.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.8.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19: (September 1993).

Gloria Bryant-Banks
Secretary

RULE

Department of Treasury Bond Commission

Multi-family Housing

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Bond Commission has amended the commission's rules as originally adopted November 20, 1976.

Rule No. HS1-1993

Definitions of Income Class

Whereas, the State Bond Commission finds a need to adopt uniform definitions of the various income classes designated in applications relative to housing issues in the State of Louisiana;

Therefore, the State Bond Commission hereby adopts the following definitions which shall be applicable to all rules governing the issuance of housing bonds in the state of Louisiana.

Very Low Income—households whose incomes do not exceed 50 percent of the median income for the area, as determined and adjusted from time to time by HUD.

Low Income—households whose incomes do not exceed 80 percent of the median income for the area, as determined and adjusted from time to time by HUD.

Moderate Income—households whose incomes are between 81 percent and 95 percent of the median income for the area, as determined and adjusted from time to time by HUD.

Middle Income—households whose income are between 96 percent and 120 percent of the median income for the area, as determined and adjusted from time to time by HUD.

The schedule of income levels as published periodically by HUD will be used for purposes of this rule to determine income levels for particular areas of the state.

Rule No. HS2-1993

State Bond Commission Multi-family Housing Applicants

Whereas, the State Bond Commission has found that there is a need to address the needs of low to moderate income families in multi-family housing projects which come before the commission for consideration;

Therefore, the State Bond Commission adopts the following rule which shall apply to all such applications submitted to the State Bond Commission for new construction, acquisition and/or rehabilitation, or refunding of multi-family housing projects.

Multi-family housing applications must include defined tenant benefit programs for those units set aside for very low, low and/or moderate income families. Those applications that do not include such programs will not be docketed for consideration. Such programs may include rent differentials, special assistance programs or other specific benefit packages for the targeted income class.

Mary L. Landrieu
State Treasurer and Chairperson

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Menhaden Season (LAC 76:VII.307)

The Wildlife and Fisheries Commission does hereby amend, in accordance with the Administrative Procedure Act, the legal menhaden fishing season.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§307. Menhaden Season

A. The season for the taking of menhaden as well as processing of menhaden shall be from the third Monday in April through November 1.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:313, 56:6(25)(a) and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 5:329 (October 1979), amended LR 14:547 (August 1988), amended LR 19:58 (January 1993), amended LR 19: (September 1993).

Bert H. Jones
Chairman

NOTICES OF INTENT

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro-Consumer Service Division of Weights and Measures

Weights and Measures (LAC 7:XXXV.Chapter 175)

Under the authority of the Louisiana Weights and Measures Law, R.S. 3:4601 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Office of Agro-Consumer Services, Division of Weights and Measures intends to amend, repeal and adopt in part the following regulations pertaining to the enforcement of the Louisiana Weights and Measures Law. These proposed rules comply with and are enabled by R.S. 3:4608.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Division of Weights and Measures

Chapter 175. Division of Weights and Measures

§17501. Specifications, Tolerances and Regulation for Commercial Weighing and Measuring Devices

A. The Commissioner of Agriculture and Forestry, under authority conferred by the Louisiana Revised Statutes of 1950, Title 3, Section 4608, and for the enforcement of requirements applicable to the equipment therein referred to, hereby adopts by reference all rules, regulations, standards, specifications and tolerances as contained in the National Bureau of Standards and Technology Handbook H-44, and amendments thereto, entitled *Specifications, Tolerances, and Regulations for Commercial Weighing and Measuring Devices*, but only insofar as the Louisiana Revised Statutes of 1950, as amended, may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4606 and R.S. 3:4608 (formerly R.S. 55:4 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17502. Definitions

Wherever in these regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

Accurate—a device that when its performance or value (that is, its indications, its deliveries, its recorded representations or its capacity or actual value, etc., as determined by test made with suitable standards) conforms to the standard within the applicable tolerances and other performance requirements. Equipment that fails to conform is inaccurate.

Commercial—the use:

1. in proving the size, quantity, extent, area or measurement of things for distribution or consumption, purchased or offered, or submitted for sale, hire or award;
2. in computing any charge for services rendered on the basis of weight or measure; or
3. in determining weight or measure when a charge is made for the determination.

Commission—the Commission of Weights and Measures established in R.S. 3:4603.

Compound weighing device—a weighing device that in its operation utilizes either more than one load receiving element and/or more than one primary indicating element.

Correct—conformance to all applicable requirements for weighing and measuring devices. Any other device is incorrect.

Indicating element—an element incorporated in a weighing or measuring device by means or which its performance relative to quantity or money value is read from the device itself (i.e. an index-and-graduated-scale combinations, a weighbeam-and-pan combination, a digital indicator, etc.).

Load-receiving element—that component of a scale that is designed to receive the load to be weighed (i.e. platforms, decks, rails, hoppers, platters, plates, scoops, etc.).

Primary indicating element—those principal indicating elements (visual) and recording elements that are designed to, or may, be used by the operator in the normal commercial use of a device. The term "primary" is applied to any element or elements that may be the determining factor in arriving at the sale representation when the device is used commercially. (Examples of primary elements are the visual indicators for meters or scales not equipped with ticket printers or other recording elements for meters or scales so equipped.) The term "primary" is not applied to such auxiliary elements (i.e. the totalizing register of predetermined-stop mechanism on a meter or the means for producing a running record of successive weighing operations) as these elements being supplementary to those that are the determining factors in sales representations of individual deliveries or weights.

Weights, measures, or weighing and measuring devices— all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any such instruments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:157 (March 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, 19:

§17503. Commodities

A. Method of Sales, Quantity Statements

1. The offer to sell and/or the sale of all commodities shall be on the basis of net weight, net measure, or numerical count, in accordance with the following provisions; however, such provisions shall not apply to fresh vegetables which by common custom are offered for sale, and/or sold by the bunch.

2. The quantity of solids shall be stated in terms of weights and the quantity of liquids in terms of measure, except that in the case of a commodity in respect to where there exists a definite trade custom otherwise, the statement may be in terms of weight or measure in accordance with such custom.

3. The quantity of viscous or semi-solid commodities, or of mixtures of solids and liquids may be stated either by weight or measure, but the statement shall be definite and shall indicate whether the quantity is stated in terms of weight or measure.

4. Where it is practical to state the quantity of a commodity in terms of numerical count, the employment of such statement is contingent upon the commodity being in definite units.

5. Statement of weight shall be in terms of the avoirdupois pound and ounce.

6. Statement of liquid measure shall be in the terms of the United States gallon of 231 cubic inches, and quart, pint, and fluid ounce subdivisions thereof.

7. Statement of dry measure shall be in terms of the United States standard bushel of 2150.42 cubic inches, and peck, dry quart, and dry pint subdivisions thereof.

8. Statement of linear measure shall be in terms of the standard yard, foot and inch subdivisions thereof.

9. Statements may be in terms of the metric system, anything in these regulations notwithstanding, where the commodity is customarily bought and sold by metric weight or measure.

B. General Requirements

1. When any term common to more than one system of weights or measures is employed in the quantity statement, said statement shall include the proper qualification of the term, as, for example; either *avoirdupois ounces* or *fluid ounces*; *liquid pints* or *dry pints*; *liquid quarts* or *dry quarts*.

2. In connection with the weight, measure, or numerical count, no qualifying word, phrase or clause shall be used; a statement such as *not less than*, *average*, *when packed*, or a statement that the contents are *between* certain limits, is not permissible.

3. All commodities in package form shall be in full compliance with the law; otherwise, there shall be applied thereto an appropriate violation notice or tag. Such notice or tag shall not be obliterated or removed from the package until the commodity in question shall be in compliance with the law, and approved by the commission.

C. Labeling; Container Construction; Drainage

1. All commodities in package form shall bear a printed or stenciled label containing (a) the true name of the commodity in the package, and (b) the name and place of business of the manufacturer, packer, distributor, or seller. Such label must be legible and in the English language and must not be covered or obscured in any way.

2. No container wherein commodities are packed shall have a false bottom, false side walls, false lid or covering, or otherwise so constructed or filled, wholly or partially as to facilitate the perpetration of deception or fraud.

3. A load receiving element intended for the purpose of

weighing wet commodities shall be constructed as to drain effectively.

D. Package Markings; Exemptions. The following shall be exempt from the provisions of the law, requiring the net quantity marking of commodities in package form:

1. All packages of food and/or dry commodities weighing one avoirdupois ounce or less.

2. All packages of food weighing one fluid ounce or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4612, R.S. 3:4613, R.S. 3:4614, R.S. 3:4602, R.S. 3:4616 and R.S. 3:4608 (formerly R.S. 55:10, R.S. 55:11, R.S. 55:12, R.S. 55:14 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17505. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 55:11 and R.S. 55:6.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, repealed by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17507. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 (formerly R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, repealed LR 19:

§17508. Crawfish; Live; Boiled; Peeled

A. *Crawfish*—freshwater crustaceans of the genera *Cambarus* or *Astacus* common to Louisiana.

1. Live or boiled crawfish

a. *Live crawfish*—any crawfish which are live at the time of purchase.

b. *Boiled crawfish*—any crawfish, still in the shell, which have been processed by boiling or steaming.

c. Live or boiled crawfish may be sold in bags or sacks.

d. The net weight of crawfish in bags or sacks must be clearly labeled in indelible ink or otherwise waterproof lettering and in accordance with all other provisions of the Louisiana Weights and Measures Law and of these regulations.

e. The labels described in LAC 7:17508.A.4 must remain on all bags or sacks of live or boiled crawfish once they leave the possession of farmer or fisherman.

f. The net weight of boiled crawfish shall be the net weight after boiling.

g. Boiled crawfish when sold for immediate consumption on the premises are exempt from this section.

B. *Peeled crawfish*—any crawfish which have been processed to remove the shells.

1. Peeled crawfish sold washed or cleaned.

a. Peeled crawfish which have been washed or cleaned of naturally adhering fat shall be labeled "cleaned" or "washed."

b. The net weight of the washed crawfish shall be the drained weight.

2. Peeled crawfish sold with naturally adhering fat.

a. Peeled crawfish may be packaged washed.

b. Naturally adhering fat content of packages of peeled crawfish shall not exceed 10 percent of the net weight of the crawfish in the package.

c. Testing for compliance with the fat content provisions shall be done in accordance with procedures outlined by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17509. Oysters - Method of Sale

A. Oysters Unshucked

The standards used for unshucked oysters is a barrel containing three bushels, a sack containing one and one-half bushels or a one and one-half bushel wire hamper containing 3225.63 cubic inches.

B. Oysters Shucked

Oysters shucked shall only be sold by liquid measure, containing not more than 15 percent of fluids, by numerical count or by net drained weight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4631, R.S. 3:4613 and R.S. 3:4608 (formerly R.S. 55:72, R.S. 55:11 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended April 1972, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17511. Poultry; Live; Dressed; - Method of Sale

A. The offer to sell and/or the sale of all poultry (except when for immediate consumption on the premises and except when sold by count as provided for in R.S. 3:4615) shall be only on the basis of either *live weight* or *dressed and drawn weight*.

B. *Live weight*—the net weight of poultry which is alive at time of sale, and as such, shall be classified as *live poultry*.

C. *Dressed and drawn weight*—the net weight of poultry after being killed, defeathered and eviscerated, and as such, shall be classified as *dressed and drawn poultry*, with only the edible parts thereof being included in the established weight.

D. *Poultry*—includes chickens, turkeys, ducks, geese, pigeons, guineas, and any other kind of domesticated bird commercially processed and sold for human consumption.

E. Live poultry shall be weighed within 30 minutes of delivery to a poultry processing facility.

F. All poultry, when placed in a container, or in any covering or wrapper, shall have its net weight plainly and conspicuously marked or labeled on the outside of the container, covering or wrapper.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4615, R.S. 3:4613 and R.S. 3:4608 (formerly R.S. 55:13, R.S. 55:11 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17512. Scales for use with Purchases of Aluminum Cans

Purchases of 20 pounds or less of aluminum cans shall be weighed on scale having at least 500 divisions with a

maximum weighing capacity of 60 pounds and an accuracy equivalent to Class III as defined in N.I.S.T. Handbook 44.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17513. Scales Prohibited From Use

A. The following scales shall not be used, sold or employed for commercial purposes in the weighing of any salable commodity:

1. an *overload* type of spring scale or balance, commonly known as *household* scales;
2. a scale identified as *illegal for use in trade*;
3. a scale whose physical condition facilitates the perpetration of deception and/or fraud.

B. Any type of apparatus, when found in any store, stand, business establishment, or on any vehicle from which commodities are sold or offered for sale, and in violation of the law and/or any regulation, shall be subject to immediate condemnation and confiscation.

C. It is prohibited to remove labels or other information placed on or packaged with scales sold in this state which indicate that such scales are not suitable or not intended for commercial use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4609 and R.S. 3:4608 (formerly R.S. 55:7 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17514. Bar code scanning devices and labels.

A. The price of a commodity offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity, or by a placard or card placed on the shelf in front of the commodity which is clearly visible and legible.

B. The price displayed on the shelf or commodity required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17515. Cotton Beam Scales

A. *Cotton beam*—a steelyard especially adopted for the weighing of bales of cotton.

B. *Normal position*—the normal balance position of the weighbeam of a beam scale shall be horizontal. A weighbeam shall not be accelerating or in neutral equilibrium under normal operating conditions but a cotton beam shall be permitted to be slightly accelerating under load.

C. *On cotton beams*—the value of the minimum graduation on a cotton beam shall not exceed one pound.

D. *Sealing cotton beam poise*—the plug or screw used in closing the adjusting cavity in a cotton beam poise shall be securely sealed with a lead seal bearing an identification mark of the manufacturer, repairman, or other person affixing the

seal, which identification mark shall be approved by and registered with the Director of Weights and Measures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4602 and R.S. 3:4614 (formerly R.S. 55:14).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953. Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17517. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 (formerly R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, repealed by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17519. Farm Bulk Milk Tank Regulations

The Division of Weights and Measures shall test the accuracy of any and all bulk milk tanks when it deems it appropriate or necessary. All installations of milk tanks shall be installed within the specifications of the Division of Weights and Measures which are outlined below:

1. All bulk milk tanks shall be installed in a rigid and level position on a reinforced concrete floor or reinforced concrete pier extending upwards from, or through concrete floor. Each foot, or leg, shall be fastened securely to floor or piers by means of a bolt or bolts and grouted around and over foot or leg with concrete to prevent tank from any movements.

2. The floor shall be not less than six inches thick of reinforced concrete. If piers are used, they shall be imbedded in ground not less than 36 inches, or three feet. The dimensions shall not be less than 16 by 16 inches wide. The same pier dimensions apply if the pier is mounted to concrete floor in a secure position to floor that complies with above floor specifications.

3. This applies to all new floor construction after July 1, 1964 and to all new installations of tanks after January 1, 1965.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:882 and R.S. 40:883.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, July 1964, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17521. Weighmaster

A. A weighmaster license shall be required of each individual in charge of weighing commodities being bought from or sold to the public and each such individual weighing for the public when a charge is made for such weighing or when a certificate of weights is issued. Each corporation, partnership, association, proprietorship or other business entity which engages in activities which require a licensed weighmaster shall employ at least one weighmaster per shift at each place of business. Individuals weighing at retail consumer outlets and individuals weighing prepackaged commodities shall be exempt from this provision.

B. The director of the Division of Weights and Measures may issue a weighmaster license after the applicant has passed the required test of his knowledge of weighing equipment.

C. This weighmaster license would be good for one calendar year, beginning January 1 through the month of

December, or any part of the calendar year, but would have to be renewed at least 15 days before the beginning of each calendar year.

D. The director of the Division of Weights and Measures shall have the authority to revoke or cancel any weighmaster license if it is found that the weighmaster is improperly using any type of weighing device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 19:

§17522. Metrology Laboratory Fee Structure

A. Fees for the tolerance testing of weights shall be as follows:

	Class F	Class P
1. Weights up to and including 10 pounds or 5 kilograms	\$ 2.00	\$ 4.00
2. Weights over 10 pounds or 5 kilograms and including 100 pounds or 60 kilograms	5.00	10.00
3. Weights over 100 pounds or 60 kilograms and including 1000 pounds or 500 kilograms	25.00	50.00
4. Weights over 1000 pounds or 500 kilograms	50.00	75.00

B. Fees for mass calibration with Report of Calibration stating corrections and uncertainties shall be as follows:

1. Weights up to and including 3 kilograms or 5 pounds	\$25.00
2. Weights over 3 kilograms or 5 pounds and including 30 kilograms or 50 pounds	50.00

C. All tape certification, volumetric testing and calibration or special tests not listed in the fee schedule shall be performed at a rate of \$30 per hour.

D. Incurred costs for return shipment shall be assessed when applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17523. Registration

A. Each commercial weighing and measuring device in use in Louisiana shall be registered annually with the division insofar as is specified in this regulation.

B. Whenever there shall exist a weight or measure or

weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used for the business purposes of that place and shall be registered as a commercial device.

C. Scales shall be registered according to the following criteria:

1. make;
2. model;
3. serial number;
4. capacity; and
5. intended use.

D. A late fee of \$25 will be assessed for each device, the maximum penalty of \$100 per outlet, when the application is submitted after December 31.

E. A late fee of \$25 will be assessed for each new device not registered within 30 days from the date it is put into service.

F. A compound weighing device shall be considered one or more devices for the purpose of registration in accordance with the following:

1. A compound weighing device that consists of a single load receiving element and more than one indicating element shall be considered a single device when all indicating elements may be tested during the same test for the purpose of sealing the device as correct. Said device shall be considered separate devices for each separate test necessary for sealing.

2. A compound weighing device that consists of one indicating element and more than one load receiving element shall for the purpose of registration be considered a separate device for each load receiving element.

G. Applicants for registration may request application forms, verbally or in writing, from the Division of Weights and Measures of the Department of Agriculture and Forestry.

H. Each application for annual registration shall be accompanied by payment of required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed on or before January 1.

I. Any registration obtained without complying with all of the requirements of these regulations may be voided by the division.

J. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

K. In accordance with R.S.3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

L. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection K of this Section.

M. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at

the last address provided by the registrant, on or before November 15 and must be returned on or before January 1.

N. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

O. Any registrant having a device registered under provisions of this regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the commission's office in writing to remove said device from its records.

Note: This regulation shall expire 12 years from the date of adoption. The fee shall only be used to pay for the direct and indirect costs of the weights and measures program and are anticipated to generate \$456,304 annually in revenues. The kinds and anticipated amounts of costs, which will be offset by this, include, but are not limited to: Personal Services - \$331,489; Operating Expenses - \$110,632. The Department of Agriculture and Forestry shall suspend collection upon finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987) amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17525. Standards

A. For the purposes of registration of weighing and measuring devices, the criteria shall be compliance with the applicable requirements of NIST Handbook 44 "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices." This publication is published annually by the United States Department of Commerce, National Institute of Standards and Technology.

B. For any device being registered for the first time, it shall be determined that the above criteria has been met and that the device:

1. has been tested and approved in Louisiana prior to January 1, 1987, with no modifications to the device since such test and approval;

2. has been tested by the National Bureau of Standards and shown to comply with Handbook 44 criteria by the issuance of a Report of Test (Prior to 1985) or a Certificate of Conformance (1985, Forward); or

3. has been tested by the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry or another state which uses Handbook 44 as its criteria and has been issued a certificate stating such test and compliance with said criteria.

C. For the purpose of registration of a weighing and measuring device, the stated intended use shall be a use that the manufacturer intended or a use that is proven suitable for that device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

§17527. Penalties

A. The commission, or his duly authorized representative, shall mark any device that is incorrect and warn its owner or user that the device is incorrect and should not be used until it is made correct. If a device that has been so marked as incorrect continues to be used commercially, the commission may seize the device in order to protect the public. The commission shall give a notice of intent to seize the incorrect device five calendar days before the actual seizure. However, a device which is not used at fixed location may be seized immediately upon a determination that said device is incorrect.

B. Upon a showing by the owner or user that adequate steps have been taken to correct the seized device, the commission shall release the seized device.

C. The commission shall give the owner or user of the seized device a hearing within 60 calendar days of a request for such a hearing. If the owner or user of the seized device fails to request a hearing on the seizure within 30 days of seizure, the right to a hearing shall be deemed waived.

D. If the owner or user waives his right to request a hearing and takes no action to retrieve the device within 60 days of seizure, the device shall be deemed abandoned property. The device may then be disposed of by the state with an obligation to the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), repromulgated, LR 19:

§17527. Powers of the Director

When necessary for the enforcement of the Louisiana Weights and Measures Law or any rule adopted pursuant thereto, the director or an employee at his direction may:

1. stop any commercial vehicle from which commodities are kept for sale, sold or in the process of delivery on the basis of weight measure or count and, after presentment of his credentials, inspect the contents, require that the person in charge of that vehicle produce any documents in his or her possession concerning the contents, and require him to proceed with the vehicle to a specified place for inspection; and

2. Access all books, papers and other information necessary for the enforcement of the Louisiana Weights and Measures Law. If after inspection the director finds or has reason to believe that the requirements set forth in the Louisiana Weights and Measures Law are not being met, he shall have access to all books, papers, records, bills of lading, invoices and other pertinent data relating to the use, sale or representation of any commodity including weighing and measuring devices within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 and R.S. 3:4607.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:

All interested persons may submit written comments, data, views or arguments on the proposed rules through October 29, 1993 to Ronnie Harrell, Department of Agriculture and Forestry, Division of Weights and Measures, 5835 Florida

Boulevard, Baton Rouge, LA 70806. No preamble concerning these regulations is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Weights and Measures**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to state or local governmental units are anticipated to result from implementation of the proposed rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue to state or local governmental units is anticipated to result from implementation of the proposed rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No impact on receipts or income to persons affected by the proposed rule changes is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is anticipated.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Board of Examiners of Certified Shorthand Reporters**

Certification, Examinations, Continuing Education, Hearings
and Fees (LAC 46: XXI.Chapters 1 - 9)

Notice is hereby given that the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters is hereby amending LAC 46: XXI.Chapters 1 through 9, as follows:

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXI. Certified Shorthand Reporters

Chapter 1. Certification

§101. Application for Certification

An applicant for a certificate shall file an application on a form provided by the board (Board of Examiners of Certified Shorthand Reporters), accompanied by any applicable fees, and such evidence, statements or documents required by said form. If an examination is required, said application must be filed with the board at least 30 days prior to an examination date. A new application is required for each examination.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR 16:393 (May 1990), LR 19:
§103. Qualifications for Certification

A. Any person over the age of 18 years, who has not committed any acts, crimes, or omissions constituting grounds for suspension or revocation of a certificate issued by the board pursuant to R.S. 37:2557(A), who has a high school education or its equivalent as determined by the board, and who has satisfactorily passed each portion of the examination described in Chapter 3 of these rules, in accordance with the rules of the board, shall be entitled to a certified court reporter certificate.

B. Effective January 1, 1994, the board shall convert all licenses held by a certified shorthand reporter or certified general reporter to that of a certified court reporter. Thereafter, any person who on December 31, 1993, held a license in good standing as a certified shorthand reporter or certified general reporter may apply to the board for issuance of a license as a certified court reporter, subject to the payment of all applicable renewal fees, satisfaction of continuing education requirements, and compliance with other conditions imposed by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:31 (January 1991), LR 19:
Chapter 3. Examinations

§301. Applications for Examinations

* * *

C. Applicant must furnish a diploma, official transcript or certificate from a licensed court reporting school that he has passed a qualifying test consisting of five minutes of two-voice Q & A at 225 wpm with 95 percent accuracy within one year prior to application to the board for examination; or a CSR certificate from another state issued with a minimum requirement of 225 wpm; or participate in an equivalent qualifying test administered by the board on a date designated by the board.

An application fee of \$25 shall be paid to the board by the applicant participating in a qualifying test administered by the board, which fee shall be refundable to the applicant upon completion of the qualifying test. An applicant who fails to timely appear for the qualifying examination by the board shall be deemed to have abandoned the application and shall forfeit the application fee for said qualifying test. Proof of passing said qualifying test must accompany the application for examination.

D. Applicants who have been found to be qualified for the examination shall be notified in writing of the time and place of their assigned examination.

E. An applicant who fails to timely appear for examination after being notified of eligibility shall be deemed to have abandoned the application and shall forfeit the application

fee. In order again to become eligible for an examination, such person shall file a new application and otherwise comply in all respects with the provisions of the act and these regulations in the same manner as required of an original applicant.

F. An applicant who commences but does not finish the examination or who otherwise fails such examination shall not be eligible for any future examination except upon filing a new application and otherwise complying in all respects with the provisions of the act and these regulations in the same manner as required of the original applicant.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR 16:393 (May 1990), LR 17:578 (June 1991), LR 19:

§309. Grading of Examination

* * *

F. For the purpose of grading stenotype tests, errors will be assessed in accordance with the guidelines accepted by the National Shorthand Reporters Association. For the purpose of grading stenomask tests, errors will be assessed in accordance with guidelines accepted by the National Stenomask Verbatim Reporters association.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR 16:393 (May 1990), LR 17:578 (June 1991), LR:19:1010 (August 1993), LR 19:

§311. Review of Examinations

Examinees will have a period of 90 days from the release of the test results to review examinations in the offices of the board. Written notification of an examinee's intent to review the examination must be received at the board's office five days prior to the review of the examination. Examinations may be reviewed only during normal working hours. On request in writing from an applicant, the board may release to applicant a copy of applicant's transcribed portion of the skills test upon payment by applicant of \$.25 per page for said copy.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR 19:

§313. Failure of Examination

* * *

D. Request for Hearing

If the applicant is not satisfied with the results of the review committee's action, the applicant may request a hearing before the board. Such request for hearing shall be in writing and shall be filed with the board within 10 days after receipt of notice of the review committee's action from the board.

E. Hearing Procedures

The rules set forth in Chapter 7 hereof shall govern appeals taken by an applicant who fails an examination.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983) amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 19:

Chapter 5. Certificates

§501. Expiration of Certificate

All certificates shall be suspended as of 12 p.m. on December 31 of each year if not, in each instance, renewed. To renew a certificate, the certificate holder shall, on or before the date on which the certificate would otherwise be suspended, pay the renewal fee established by the board. A suspension under this Section shall be effective until all delinquent fees have been paid in full.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR 19:

§503. Certificate Number

A reporter shall indicate the reporter's certificate number in the certification on each transcript prepared by the reporter and shall attest that the certificate number is in good standing.

§505. Cause for Suspension, Revocation, or Non-Issuance of Certificate

* * *

E. failure to restrict the practice of court reporting to the system under which a certificate holder is certified.

F. failure to comply with regulations promulgated by the board pursuant to the Administrative Procedure Act.

§506. Certification Without Examination

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:31 (January 1991), repealed LR 19:

§507. Inactive Status

A. A licensed reporter may, upon proper application and satisfactory proof, attain inactive status. A reporter on inactive status is prohibited from engaging in the practice of court reporting in Louisiana. A reporter on inactive status is not required to pay the annual renewal fee or to obtain continuing education credits.

B. The board will consider as due proof of eligibility for inactive status any of the following:

1. an affidavit signed by the applicant and stating that the applicant has not taken or transcribed depositions, investigations, conventions, hearings, court proceedings, or other such matters within the state of Louisiana as a court reporter for a period of two or more years.

2. an affidavit signed by the applicant or by the applicant's physician stating that due to medical reasons the

applicant will be unable to practice as a court reporter for a period of two or more years in the future. The board may request and the applicant must afford any medical records necessary to verify the representations of medical incapacity.

3. an affidavit signed by the applicant stating that the applicant will be absent from the state of Louisiana for a period of two or more years in the future. The board may request and the applicant must afford any requested proof of relocation (e.g., voter registration card) to verify the representations contained in the affidavit.

C. A reporter may reactivate the license that prevailed before attaining inactive status by making application to the board accompanied by payment of all fees in effect at that time for other similarly situated reporters engaged in active practice during the current calendar year. In deciding whether to permit the return to active status, the board shall consider the duration of the applicant's inactive status, the applicant's current medical condition, the applicant's current capability to perform proficiently the tasks required of a reporter, any continuing education credits obtained or any practice of shorthand reporting conducted in another state during the period while on inactive status, and such other matters as the board may deem appropriate. In making its evaluation of an applicant's request for a return to active status, the board may require copies of the applicant's medical records, may require the applicant to take a proficiency test, or may request such other information as it deems appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 19:

§509. Notice of Suspended, Revoked, or Inactive Certificates

Twice a year the board will issue to all court reporters, court reporting agencies, bar associations, and courts within the state of Louisiana a public notice identifying all reporters who within the preceding six months have had certificates suspended, revoked, or placed on inactive status.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 19:

Chapter 6. Continuing Education

§607. Maintenance of Record

* * *

E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:33 (January 1991), amended LR 17:578 (June 1991), LR 19:

§609. Continuing Education Guidelines

A. The following general subject matter and enumerated continuing education credits may be approved by the board in the event the subject matter contributes to the professional competence of the practitioner of court reporting:

1. Seminars and workshops sponsored by or at National

Court Reporters Association (NCRA) regional, state, or local meetings, public institutions of higher learning, and judicial organization, including the following subjects:

- a. English;
- b. medical;
- c. legal;
- d. technical subjects presented by experts dealing with terminology and concepts encountered by the reporter during depositions and at trials;
- e. new developments and knowledge in the field directly related to making the record;
- f. general court and deposition procedures;
- g. general court and deposition transcript preparation;
- h. management;
- i. professionalism; or
- j. office procedures, record-keeping, health, and the "consummate" person.

2. Formal courses sponsored by or instituted for universities and colleges, postgraduate courses held by court reporting schools, duly licensed by the state, adult education schools, duly licensed by the state, and related organizations, established and approved by the appropriate educational authority, to administer continuing education courses, subject to the approval of the Board of the Academy of Professional Reporters with formal enrollment and recordation by official transcript of the completion of the courts, including:

a. Universities and Colleges

i. A reporter who has formally enrolled in an accredited university or college and has successfully completed an academic or technical subject and received a passing grade of C or better shall receive the following credits:

- (a). one semester credit - four C.E. credits;
- (b). one trimester credit - three C.E. credits;
- (c). one quarter credit - two C.E. credits.

ii. A reporter who has formally enrolled in an academic or technical subject at an accredited university or college shall receive the following credits:

- (a). one semester credit - two C.E. credits;
- (b). one trimester credit - one C.E. credit;
- (c). one quarter credit - one C.E. credit;

b. Postgraduate Courses in Court Reporting Schools-A reporter who successfully completes a postgraduate course (excluding dictation practice) in an accredited court reporting school and receives a passing grade shall receive two C.E. credits for every postgraduate course completed.

c. Adult Education School-A reporter who successfully completes an adult education course in an academic subject at an accredited school shall receive one C.E. credit for every two contact hours.

d. The board may recognize credits from other institutions and organizations giving continuing education courses if the course concerns giving continuing education courses if the course concerns subject matter that meets the needs of the reporter's professional or career goals in shorthand reporting.

3. Special activities including a certificate of merit test or speed contest administered by the National Court Reporters Association (NCRA) or a board-sponsored speed contest or award of excellence, with the award of excellence credit

limited to no more than one continuing education credit per reporting period, as follows:

a. Certificate of Merit Test

i. An NCRA-tested Registered Professional Reporter (RPR) passing any one section of the Certificate of Merit Test for the first time shall receive five C.E. credits.

ii. A state-tested Certified Court Reporter (C.C.R.) holding RPR status passing all three parts of the skills section at the same time shall receive five C.E. credits for each part.

b. NCRA Speed Contest. A reporter qualifying on any one section of the NCRA Speed Contest shall receive five C.E. credits.

c. State-Sponsored Speed Contest or Award of Excellence. A reporter qualifying on any one section of state-sponsored speed contest or an Award of Excellence shall receive the following credits, provided such section equals or exceeds the requirements of the NCRA Certificate of Merit Exam:

i. State-sponsored speed contest - four credits;

ii. Award of Excellence - four credits.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:33 (January 1991), amended LR 19:

Chapter 7. Hearings

§701. Accused Person

The board may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts which if proven would constitute grounds for refusal, suspension or revocation of a certificate, investigate the actions of any person who applies for, holds or represents that he holds a certificate. Such person is hereinafter called the accused.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 19:

§703. Written Notification

Before refusing to issue, suspending or revoking any certificate, the board shall at least 10 days prior to date set for the hearing, notify in writing the accused of any charges made and shall afford such accused person an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by delivery of the same personally to the accused person, or by mailing the same by registered or certified mail to the address last theretofore specified by the accused person in his last notification to the board. At the time and place fixed in the notice, the board shall proceed to hearing of the charges and both the accused person and the complainant shall be accorded ample opportunity to present in person, or by counsel, such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The board may continue such hearing from time to time. If the board shall not be sitting at the time and place fixed in the notice or at the time and place at which the hearing shall have been

continued, the board shall continue such hearing for a period not to exceed 30 days.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 19:

§709. Record of Proceedings

The board, at its expense, shall provide a reporter to take down the testimony and preserve a record of all proceedings at the hearing of any case wherein a certificate may be revoked or suspended. The notice of hearing, complaint and all other documents in the nature of pleadings and written motion filed in the proceedings, the transcript of testimony, the report of the board and the orders of the board shall be the record of such proceedings. The board shall furnish a transcript of such record to any person interested in such hearing upon payment therefor of \$3 per page for each original transcript and \$1.50 per page for each carbon copy thereof ordered with the original.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 19:

§711. Report of Findings and Recommendations

The board shall present to the chairman its written report of its findings and recommendations, and the chairman shall have the right to take the action recommended by the board. Upon the suspension or revocation of a certificate, certificate holder shall be required to surrender the certificate and seal to the board, and upon the failure or refusal to do so, the board shall have the right to seize the same. A copy of such report shall be served upon the accused person and the complainant, either personally or by registered or certified mail.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 19:

§713. Appeal

An appeal of the decision of the board must be filed with a court of competent jurisdiction within 30 days from notice of suspension, revocation, or refusal.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 19:

§715. Expiration of Appeal Time

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), repealed by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 19:

Chapter 9. Fees

§901. Fees

The following fees shall be paid to the board:

1. The fee to be paid for the issuance of a certificate of registration without board examination is \$75.
2. The fee to be paid for the purchase of a list of labels that include names and addresses of current reporters for seminars shall be \$40.
3. The fee to be paid upon the renewal of the certificate of registration is \$75.
4. The fee to be paid for the purchase of a list of names and addresses of current reporters shall be \$25.
5. The fee to be paid for the reinstatement of a certificate shall be the payment of all delinquent fees, plus \$15.
6. The fee to be paid for regrading an examination shall be \$30.
7. The fee to be paid for a C.C.R. seal is \$30.
8. The fee to be paid for the purchase of examination materials is \$.25 per page and \$10 per cassette.
9. The fee to be paid for the qualifying test of Q & A at 225 wpm shall be \$25, which fee shall be refundable upon completion of the qualifying test, or forfeited should the applicant fail to appear for the taking of said qualifying test.
10. The fee to be paid for an NSF check issued to the board shall be \$15.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:679 (October 1983), amended LR 10:269 (April 1984), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:34 (January 1991), LR 17:578 (June 1991), LR 19:

Interested persons may submit written or oral comments to Gay M. Pilié, Board of Examiners of Certified Shorthand Reporters, 325 Loyola Avenue, Suite 306, New Orleans, LA 70112, (504) 523-4306. Comments will be accepted through the close of business on October 20, 1993.

Leon A. Cannizzaro, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Certification, Examinations, Continuing
Education, Hearings and Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The board will incur a one-time printing cost of approximately \$450 for the issuance of new certificates.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be a decrease in collected revenues of approximately \$4,150 due first to the decline in the number of applicants taking the examination because of the change in required qualifications, and secondly to a decrease in court

reporters paying their annual certification fee because of inactive status. However, the board will collect an additional \$1,390 in revenue due to the increase in fees for certain materials. Thus, the proposed rule will result in an approximate \$2,760 net decrease in revenue collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Individuals applying for state certification, who have passed the National RPR or NSVRA Examination will pay a \$75 certification fee, resulting in a \$25 increase. Certified reporters will be required to pay a one-time fee for the purchase of a new seal which will read "Certified Court Reporter."

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Leon A. Cannizzaro, Jr.
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Financial Institutions Fees and Assessments
(LAC 10:I.110, 201, 203 and LAC 10:III.5101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as provided for by R.S. 6:126(A) and R.S. 6:646(B)(5), notice is hereby given that the Office of Financial Institutions intends to adopt new rules and repeal certain existing rules to provide for the levy of fees and assessments upon banks, savings and loan associations, savings banks and corporate credit unions.

Title 10

FINANCIAL INSTITUTIONS, UCC, AND CONSUMER CREDIT

Part I. Banks, Savings and Loan Associations, Savings Banks and Corporate Credit Unions

Chapter 1. General Provisions

§110. Assessments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1) and 242(A)(15).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 14:608 (September 1980), repromulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:699 (October 1988), repealed LR 19:

Chapter 2. Fees and Assessments

§201. Establishment of Fees and Assessments

A. For the reservation of a corporate name of a state bank, savings and loan association, or savings bank - \$100.

B. Application for a de novo state bank, savings and loan association or savings bank charter, or the merger or consolidation of two banks, savings and loan associations, or savings banks. An additional \$5,000 fee will be charged for

each additional institution affected. Includes conversion from national bank or federal savings and loan association, or savings bank to state bank, savings and loan association or savings bank. Fee is non-refundable - **\$10,000**.

C. Application for a state bank, savings and loan association or savings bank for a branch office. Fee is non-refundable - **\$ 1,000**.

D. Processing fee for application to acquire a failing or failed institution. If applicant is successful bidder, processing fee will be applied to application fee(s) as set forth in B and C above:

1. Existing state-chartered financial institution - **\$500** (per branch).

2. De Novo state-chartered financial institution - **\$ 5,000**.

E. Application for a state bank, savings and loan association, or savings bank for an electronic financial terminal machine. Fee is non-refundable - **\$500**.

F. Application for a conversion or merger of a state-chartered bank, savings and loan association, or savings bank into a national bank, a federal savings and loan association, or a federal savings bank. Fee is non-refundable - **\$5,000**.

G. Application for organization and/or merger of a stock or mutual holding company for an already existing bank, savings and loan association, or savings bank (phantom). Fee is non-refundable - **\$2,000**.

H. Application to relocate a bank, savings and loan association or savings bank, main office or branch. Fee is non-refundable - **\$1,000**.

I. Special examination fee for state bank, savings and loan association, or savings bank. Fee per examiner - **\$50/hour**.

J. Semi-annual assessment of each state-chartered bank, savings and loan association, and savings bank at a floating rate to be assessed no later than the June 30 and December 31, to be based on the total *consolidated* assets, for the preceding six-month period. Not applicable to trust banks. Any amounts collected in excess of actual expenditures of the Office of Financial Institutions shall be credited or refunded on a pro rata basis. Any shortages in assessments to cover actual operating expenses of OFI shall be added to the next variable assessment or billed on a pro rata basis - **Variable**.

K. Annual assessment of each holding company domiciled in and/or operating in Louisiana, to be assessed no later than September 30 of each year to be based upon the holding company's total *consolidated* assets as of June 30, in accordance with the following schedule:

1. Assets less than \$100,000,000 - **\$350**.

2. Assets of \$100,000,000 to \$149,999,999 - **\$500**.

3. Assets of \$150,000,000 or greater - **\$650**.

L. Examination fee for each bank, savings and loan association, or savings bank holding company domiciled in and/or operating in Louisiana. Fee per examiner - **\$50/hour**.

M. Application by an in-state financial institution to establish an in-state and/or out-of-state loan or trust production office. Fee is non-refundable - **\$750**.

N. Application by an out-of-state financial institution to establish an in-state loan production office. Fee is non-refundable - **\$ 1,500**.

O. Semi-annual assessment for each bank limited to the exercise of trust powers only and domiciled and operating in

Louisiana to be assessed no later than June 30 and December 31 - **\$500**.

P. Examination fee for each trust bank domiciled and operating in Louisiana. Fee per examiner - **\$50/hour**.

Q. Examination fee for trust department of state-chartered bank, savings and loan association, or savings bank. Fee per examiner - **\$50/hour**.

R. Examination of registered transfer agent activities of state-chartered bank, savings and loan association, or savings bank. Fee per examiner - **\$50/hour**.

S. Review of state-chartered bank's, savings and loan association's, or savings bank's filing of restatements and/or amendments of its articles of incorporation. Fee is non-refundable - **\$250**.

T. Replacement charter and/or branch certificate. Fee per certificate - **\$100**.

U. Petition by a bank, savings and loan association, or savings bank to exceed its legal lending limit to finance the sale of other real estate. For each request, the greater of \$500 or actual costs at \$50 an hour.

V. Filing of agreement for substitution of fiduciary between two or more institutions authorized to exercise fiduciary powers, pursuant to LSA-R.S. 9:2130 - **\$25**.

W. Application by state-chartered bank, savings and loan association, or savings bank to establish a trust department and/or re-institute trust powers formerly surrendered. Fee is non-refundable - **\$ 1,000**.

X. Application by a state-chartered bank, savings and loan association, or savings bank to establish or acquire a subsidiary or service corporation. Fee is non-refundable - **\$1,000**.

Y. Application by an out-of-state holding company to acquire a Louisiana state-chartered bank or bank holding company or an out-of-state bank holding company with a Louisiana state-chartered bank subsidiary(ies), pursuant to LA R.S.6:535. Application fee of \$1,000 (plus \$10,000 if de novo charter also required) - **\$1,000**.

Z. Corporate Credit Union Examination Fee. Base fee of **\$2,000** plus **\$400** per day, per examiner.

AA. Application by a state-chartered bank, savings and loan association, or savings bank to merge with its parent holding company. Fee is non-refundable - **\$1,000**.

AB. Processing fee for a certificate of authority filed by state-chartered savings and loan associations or savings banks not domiciled in Louisiana to operate a branch in the state. Fee is non-refundable - **\$1,000**.

AC. Application for conversion of a state-chartered savings and loan association to a state-chartered savings bank or commercial bank, or vice versa. Fee is non-refundable - **\$1,500**.

AUTHORITY NOTE: Promulgated in accordance with R.S. 126(A) and R.S. 6:646(B)(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: **\$203. Administration**

A. The commissioner may increase any of the above fees when a combination of two or more of the transactions described above occur, said additional fee not to exceed the lesser of \$50 per hour, or the combined fees as stated above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:126(A) and R.S. 6:646(B)(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:

Part III. Homestead and Building and Loan Associations

Chapter 51. Assessments

§5101. Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1) and 911(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 15:465 (June 1989), repealed LR 19:

These proposed regulations are scheduled to become effective on January 1, 1994.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than 4:45 p.m., November 19, 1993, to Gary L. Newport, Senior Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095, or by delivery to 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809.

Larry L. Murray
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Financial Institutions Fees and Assessments**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Costs associated with the implementation of this rule comprised of postage and time spent for crediting any overpayments or billing for any underpayments, will be minimal. These costs will be offset by savings in time when assessments are billed semi-annually rather than quarterly.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units. Fees will be increased and variable assessments will be decreased, resulting in no net change in revenues collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule will provide for those institutions which more often utilize the services of the Office of Financial Institutions to pay more in the form of fees. The semi-annual assessment of state-chartered banks, savings and loan associations and savings banks will be reduced by the revenues collected from these fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Lynda A. Drake
Deputy Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Used Motor Vehicles and Parts Commission**

**Qualifications and Eligibility for Licensure
(LAC 46:V.2905)**

In accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, proposes to adopt the following rule.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

**Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 29. Used Motor Vehicle Dealer
§2905. Qualifications and Eligibility for Licensure**

* * *

F. Dealers whose majority of his principle business include the selling of used parts and accessories likewise must meet the above qualifications, where applicable, to be eligible and all these types license numbers will be prefixed by UA, followed by a four digit number, then the current year of license (UA-0000-93). Dealers in rebuilt parts are not included herein.

1. Used parts are broadly described as those parts necessary for operation of a vehicle. They include, but not limited to, the following: motors, wheels, tires, generators, alternators, water pumps, glass, batteries, radiators, spark plugs, fuel tanks, etc.

2. A used accessory is broadly described as any used item normally placed on a car which is not a used part as stated above. They include, but are not limited to, the following: air conditioning system and parts thereof, truck and roof mount racks, floor mats, splash guards, wheel covers (hub caps), heating systems, running boards, tape players, radios, antennas, etc.

3. License fees charged and received by the commission for licenses issued on dealers above shall be the same as for all other dealers licensed by this agency as is described in R.S. 32:774 D.(1).

4. At least one salesman's license shall be issued for each business. License fee charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:774 D.(3).

5. A surety bond will not be required for dealers whose principle business is selling used parts and used accessories only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773 A.(3) and R.S. 32:774 D.(1)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 19:

Interested persons may submit written comments concerning this proposed rule until October 11, 1993, to Francis Landry,

Chairman, Used Motor Vehicle and Parts Commission, 3132 Valley Creek Drive, Baton Rouge, LA 70808.

Francis A. Landry
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Qualifications and Eligibility for Licensure

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs will not be incurred for the proposed rule. It is anticipated that the commission will utilize existing personnel and equipment, as the same services will be provided.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be an increase of self-generated revenues of approximately \$42,000 as a result of the proposed rule. This is based on licensing approximately 200 additional dealers and 200 additional salesmen.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
These dealers will experience an estimated \$210 increase in the cost of operating their business each year. This increase covers \$200 for the dealer license and \$10 for the salesman's license. By licensing and regulating these dealers, consumers can be protected and assisted when they purchase used motor vehicle parts and accessories. This rule may cause some businesses to close, thereby, increasing revenues for the remaining dealers.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
By requiring these dealers to be licensed and regulated, hopefully, those dealers who are not reputable will be forced to improve their operations or cease operation.

Francis A. Landry
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1921-Annual Special Education Program and
Bulletin 1927-Pre-School Grant Application
(LAC 28:I.Chapter 9)

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 Bulletin 1921, Louisiana Annual Special Education Program Plan (IDEA-B) for FY94-96, and Bulletin 1927, Pre-school Grant Application.

The Louisiana Annual Special Education Program Plan (IDEA-B) and the Pre-school Grant Application may be seen in their entirety in the Office of the State Register, located on the Fifth Floor of the Capital Annex Building, 1051 North

Third Street, in the Office of Special Educational Services, State Department of Education, and in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, Louisiana.

These bulletins were also adopted as emergency rules since the Plan and Application must be submitted to the United States Department of Education by May 3, 1993 in order for the federal funds to be received by July 1, 1993.

The Louisiana Special Education Program Plan and Bulletin 1927, Pre-school Grant Application are referenced in the Administrative Code, Title 28 as noted below:

Title 28

EDUCATION

**Part 1. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§937. Special Education State Plan**

A. Bulletin 1921, the Revised Louisiana Annual Special Education Program Plan, for Fiscal Years 1994-1996 is adopted, along with Bulletin 1927, Pre-school Grant Application.

* * *

AUTHORITY NOTE: Promulgated in accordance with Section 1419 of IDEA-B, Section 619, P. L. 102-119 (Preschool 3-5 Grant) (CFDA 84.173); R. S. 17:1944, and 1948.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., November 8, 1993 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: Annual Special Education State Plan
and Pre-school Grant**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Under the current State Plan, the state received \$36,001,260 in federal grant awards to expend. For FY 94, we anticipate a total of \$38,261,977 which is an increase of \$2,260,717. This increase in costs is due to the increase in the number of children counted to generate the funds.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Adoption of this rule and subsequent approval by the U.S. Department of Education would increase federal revenues by approximately \$2.2 million.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Adoption of this rule would provide approximately \$25,505,071 of the IDEA, Part B funds to local school systems (LEAs) to assist in the implementation of their special education programs and approximately \$5,090,006 of the Pre-school funds to provide local school systems with inservice training, technical assistance and program support.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Thirty-eight and one-half administrative (35 IDEA, Part B, 3.5 Pre-school) and 42 (40 IDEA, Part B, 2 Pre-school) SEA level positions and eight regional LEA preschool coordinators would be continued which are essential for the coordination of local, state and federal guidelines mandating services for exceptional students. The effect on employment for local school systems personnel is substantial. Local school systems employ needed personnel with flow-through funds based on approval of their local project application for funding.

Marlyn Langley
Deputy Superintendent for
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 1934 - Starting Points Preschool Regulations
(LAC 28:I.906)**

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 Bulletin 1934, Starting Points Preschool Regulations. These regulations were also adopted as an emergency rule and printed in full in the August 1993 issue of the Louisiana Register. Bulletin 1934 will be referenced in the Louisiana Administrative Code, Title 28 as follows:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§906. Early Childhood Programs**

* * *

B. Bulletin 1934, Starting Points Preschool Regulations is adopted. Local Starting Points Preschool Programs will adhere to the developmental philosophy as outlined by the National Association for the Education of Young Children. Developmentally appropriate practices have been proven to be effective in early childhood education. Inherent in this philosophy is the provision of a child-centered program directed toward the development of cognitive, social, emotional, communication and motor skills in a manner and at a pace consistent with the needs and capabilities of the individual child.

AUTHORITY NOTE: Promulgated in accordance with 12291 Federal Regulations 45 CFR, Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., November 8, 1993 to: Eileen Bickham, 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: Starting Points Preschool Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of this bulletin is needed for continued implementation of the Starting Points Preschool Program. 3.1 million dollars is allocated to various public and approved nonpublic schools around the state. Administrative costs are estimated to be \$212,922. The funds are IAT Funds from the Department of Social Services and will not cause actual expenditures of the Department of Education to increase.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections with the adoption of this bulletin. The Department of Education will continue to receive IAT funds from the Department of Social Services through the U.S. Child Care and Development Block Grant. These funds flow to local education agencies.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Parents and children will benefit from the Starting Points Preschool Program. The availability of this program enables parents to return to the workforce or receive training/education which will enable them to return to work while their children are provided educational experiences directed toward the development of cognitive, social, emotional and physical skills.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These funds will be used to employ approximately 75 Louisiana certified teachers and aides.

Marlyn J. Langley,
Deputy Superintendent
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Child and Adult Care Food Program (LAC 28:I.944)

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 rules and regulations for the Child Care Registration for Participants in the Child and Adult Care Food Program as mandated by Act 925 of 1993. These regulations will be included in the Administrative Code, Title 28 and were adopted as an emergency rule, effective July 22, 1993.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§944. Child and Adult Care Food Program**

A. Child Care Registration for Participants in the Child and

Adult Care Food Program. In compliance with R.S. 46:1441.4(B), the following rules and regulations are hereby established to carry out the provisions of this Chapter for those family child day care homes and group child day care homes which participate in the federal Child and Adult Care Food Program.

1. Definitions. As established by R.S. 1441.1 and as used in these rules and regulations, the following definitions shall apply unless the context clearly states otherwise.

Child—a person who has not reached the age of 13 years. The words "child" and "children" are used interchangeably in this Chapter.

Child and Adult Care Food Program—the federal nutrition reimbursement program as funded by the federal Department of Agriculture through the state Department of Education.

Department—the Department of Health and Hospitals or the Department of Social Services or the Department of Education in accordance with 7 CFR Part 226, as indicated by the context.

Family Child Day Care Home—any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and/or guidance of six or fewer children.

Group Child Day Care Home—any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and/or guidance of seven but not more than 12 children.

Sponsoring Agency—any private, public, for profit or nonprofit corporation, society, agency, or any other group approved by or contracted with the Department of Education to coordinate family child day care homes and group child day care homes participating in the federal Child and Adult Care Food Program.

2. All Group Child Day Care Homes which participate in the Child and Adult Care Food Program (CACFP) shall be licensed through the Louisiana Department of Social Services in accordance with the provisions of R.S. 46:1401-1424.

3. All Family Child Day Care Homes which participate in the Child and Adult Care Food Program (CACFP) shall be registered through the Louisiana Department of Education according to the following criteria:

- a. the facility shall be the private residence of the child care provider;
- b. the provider shall enter into the required program agreement with a Louisiana Department of Education-approved CACFP sponsor;
- c. the provider shall attend a minimum of one sponsor-conducted training session per year;
- d. no more than six children shall be in attendance at the facility;
- e. the facility shall be inspected and approved in accordance with R.S. 46:1441. Inspection criteria shall be as follows:
 - i. matches, lighters and other sources of ignition shall be kept out of reach of children;
 - ii. portable electric heaters shall be of an approved

type, shall be equipped with a tilt switch and shall be located away from combustibles;

iii. at least one smoke detector shall be properly installed, located and maintained;

iv. protective receptacle covers shall be installed in all areas occupied by children under five years of age;

v. every room used for sleeping, living, or dining purposes shall have at least two means of escape, at least one which is a door or stairway providing a means of unobstructed travel to the outside of the building. If the home has burglar bars, the burglar bars shall have either release latches or keys in the locks during all hours of child care. If the home has doors with dead bolt locks, the dead bolt locks shall have keys inserted in the locks during all hours of child care. If the home has jalousie windows which do not meet size requirements, the rooms shall not be used for sleeping during any hours of child care;

vi. stairways shall be maintained free of storage items;

vii. every closet door shall be designed to permit the opening of the locked door from inside the closet;

viii. every bathroom door lock must be designed to permit the opening of the locked door from the outside in an emergency. The opening device must be readily accessible;

ix. a properly charged portable fire extinguisher (minimum 2A) must be readily accessible;

x. the hot water heater shall be properly installed;

xi. the facility shall have adequate lighting and ventilation;

xii. unvented fuel-fired room heaters shall be used only in rooms in which a window is raised;

xiii. flammable liquids shall be properly stored.

xiv. combustibles shall be stored away from heating units or water heaters;

xv. wiring, fixtures and appliances in the facility shall be safe;

xvi. the facility shall have an adequate water supply and a working sewerage system;

xvii. the facility shall be clean and free of insect and rodent infestation;

xviii. garbage shall be disposed of properly;

xix. the temperature of the refrigerator shall be maintained at or below 45° F. (A thermometer shall be left in the refrigerator for at least 10 minutes to achieve an accurate reading).

f. The facility inspection as referenced in §944.3.e above shall be conducted annually. However, facilities which are complying with applicable procedures to renew registration may participate in the CACFP during the renewal process unless the Department of Education has information which indicates that renewal will be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1441.4(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., November 8, 1993 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: Child Care Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs (savings) to the Department of Education.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections for the Department of Education. A revenue increase will be utilized by the Office of the State Fire Marshal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Louisiana Family Day Care Home Providers will be required to pay an additional \$25 from the current charge of \$5 in order to receive an inspection by the Office of the State Fire Marshal and in order to become eligible to be considered a "registered" family day care home. Registered family day care homes may participate in the Child and Adult Care Food Program (CACFP). The CACFP provides reimbursement for nutritious meal service to enrolled children at the rate of up to \$450 per month.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

M. Langley
Deputy Superintendent
for Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Technical Institutes Refund Policy (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 addition to the refund policy of the technical institutes. This addition is an amendment to the Administrative Code, Title 28 as stated below and was adopted as an emergency rule, and printed in the August 1993 issue of the Louisiana Register. Effective date of the emergency rule was July 22, 1993.

Title 28
EDUCATION

Part 1. Board of Elementary and Secondary Education
Chapter 15. Vocational and Vocational-Technical
Education

§1523. Students

E. Fees for Louisiana Residents

* * *

3. Refund Policy

a. Enrollment or re-enrollment payments, or acceptable evidence of indebtedness, shall be due upon registration or re-enrollment, as part of the enrollment process. These fees are non-refundable except where the class is canceled or closed.

b. Title IV Recipient Pro Rata Refund Policy:

i. This pro rata refund policy applies only to students who are first-time enrollees *and* who are recipients of Title IV funds. This requirement does not apply to any student whose withdrawal date is after 60 percent of the enrollment period has transpired.

ii. Each institution shall refund a portion of unearned tuition and fees assessed students who are recipients of Title IV funds, if the student fails to complete the period of enrollment for which the Title IV funds were provided.

iii. The refund shall be equal to tuition for that portion of the period of enrollment for which the student has been charged that remains on the student's last day of attendance, rounded downward to the nearest 10 percent of that period. Any refund shall be reduced by an administrative fee not to exceed five percent of the tuition for the enrollment period.

iv. Refunds shall be credited to the following programs in this order:

- (a) outstanding balances on Part B, D, and E loans,
- (b) awards for PELL, SEOG, and CW-S programs,
- (c) to other Title IV student assistance programs, and
- (d) any other agency paying tuition. Students shall not receive a refund of tuition.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)(11) and R.S. 17:1997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., November 8, 1993 to: Eileen Bickham, 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: Pro Rata Refund Policy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the state-wide costs for printing of the new policy will be approximately \$75. Approximately 30 minutes to one hour of staff time will be required to process the necessary paper work associated with issuing a refund. At this time, it is impossible to predict how many students will be involved in refunds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As result of the pro rata refund policy, we anticipate no increase or decrease in revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is estimated that there will be no cost or economic benefit to directly affected persons (i. e. students).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition or on employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Technical Institutes Tuition Fees (LAC 28:I.1523)

In accordance with R.S. 49:950 seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to LAC 28:I.1523.E as stated below. This amendment increases the tuition fee for the technical institutes from \$300 to \$420 per year, and was adopted as an emergency rule, effective August 30, 1993.

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

1. Registration and Fee Schedule

b. Residents shall pay in advance, the following tuition fees: (effective August 30, 1993)

Full-time \$35.00 per month

3/4 time \$26.25 per month

1/2 time \$17.50 per month

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)(11); R.S. 17:1997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may comment on the proposed rule until 4:30 p.m., November 8, 1993 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: Vocational Education Tuition Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the statewide costs for printing of the new policy will be approximately \$75.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state postsecondary technical institute system should collect an estimated \$1.2 million in additional tuition funds during FY 93-94.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This increase in tuition will enable postsecondary technical institutes to maintain their prior year level of operation due to the state budget cuts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition or on employment.

Marlyn J. Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Board of Regents

Registration, Licensure and Consumer Protection (LAC 28:IX.Chapters 1, 3 and 5)

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 approved for advertisement rules for registration and licensure. The text of these proposed rules may be viewed in their entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the rules until 4:30 p.m., Oct. 8, 1993 to Dr. Larry Tremblay, Board of Regents, 150 Third Street, Suite 129, Baton Rouge, LA 70801-1389.

Sammie W. Cospser
Commissioner of Higher Education

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Registration, Licensure and Consumer
Protection**

Post Office Box 94064
Baton Rouge, Louisiana 70804-9064

The annual renewal fee for licensed schools shall be based upon each school's previous year gross tuition revenue as follows:

Gross Tuition	Fee
Under \$50,000	\$500
\$50,000 and up	Greater of \$1,000 or .25% of gross tuition income

Please Attach:

(1) This completed PSC-12 form attesting to the gross tuition income of the school.

(2) For those schools which participate in Title IV funding, a set of financial statements that have been audited by a certified public accountant including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year and in the case of a corporation, signed by an officer of the corporation OR in the case of a sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s). Or, for those schools which do not participate in Title IV funding, a set of financial statements that have been reviewed by a certified public accountant, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation, signed by an officer of the corporation OR in the case of a sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s).

Affidavit

Know All Men by These Presents:

That we, _____
of the City of _____ State of _____
collected gross tuition in our previous business year (12-month period) from (date) _____ to _____ of \$ _____.

I do solemnly declare and affirm, under penalties of perjury that the information presented on this document is true and correct.

Signature: _____

Title: _____

Name of Institution: _____

Address: _____

Notary Public

Signature and Seal

Attach a set of reviewed and/or audited financial statements from your CPA including a current balance sheet and an income statement for your school's last fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3, 3141.8, 3141.14, 3141.18.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 19:

Interested persons may submit written comments to the following address: Andrew H. Gasperecz, Executive Secretary, Louisiana Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, through October 6, 1993. He is the person

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated costs for administering Act 129 of the 1991 Regular Session of the Louisiana Legislature is \$3,000 in fiscal year 1993-94 and \$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 NON-GOVERNMENTAL GROUPS (Summary)
The costs will be borne by those postsecondary degree-granting institutions wishing to operate in the state of Louisiana.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be a negligible effect on competition and employment in Louisiana due to Act 129.

Sammie W. Cospier
Commissioner of Higher Education

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Proprietary School Commission**

**Annual Licensure Renewal Fee
(PSC-12, Appendix L) (LAC 28:III)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Education intends to adopt the following rule to amend Bulletin 1443 by amending the Annual Licensure Renewal Fee (PSC-12, Appendix L).

Title 28

EDUCATION

PART III. Proprietary Schools

Annual License Renewal Fee Based on School's Previous Year Gross Tuition Revenue

PSC-12

APPENDIX L

**Annual Licensure Renewal Fee
Based on School's Previous Year**

Gross Tuition Revenue

(R.S. 17:3141.4B)

State of Louisiana

Department of Education

Proprietary School Commission

responsible for responding to inquiries regarding this proposed rule.

Andrew H. Gasperecz
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Annual Licensure Renewal Fee
(PSC-12, Appendix L)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
All costs of the Proprietary Schools Bureau are self-generated by license fees paid to the bureau by licensees. There will be an estimated cost of \$50 for printing and mailing of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will amend the annual renewal fee schedule as per Act 762 of 1993. It is estimated that this proposed rule could increase the annual operational revenue by approximately \$125,000.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There may be some proprietary schools that will incur additional costs due to the new licensure fee schedule as per Act 762 of 1993.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Andrew H. Gasperecz
Executive Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Proprietary School Commission**

**Initial Licensure Fee and Annual License
Renewal Fee Schedule (LAC 28:III)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Education intends to adopt the following rule to amend Bulletin 1443 by amending the initial licensure fee and annual license renewal fee schedule.

**TITLE 28
EDUCATION**

PART III. PROPRIETARY SCHOOLS

**Initial License Fee and Annual License Renewal Fee
Schedule**

The initial license fee shall be \$2,000 and the annual renewal fee shall be based upon each school's previous year's gross tuition revenues as follows:

- Under 50,000 \$500
- \$50,000 and up Greater of \$1,000 or .25 percent of gross tuition income

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3, 3141.8, 3141.14, 3141.18

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 16:604 (July 1990), amended LR 19:173 (February 1993).

Interested persons may submit written comments to the following address: Andrew H. Gasperecz, Executive Secretary, Louisiana Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, through October 6, 1993. He is the person responsible for responding to inquiries regarding this proposed rule.

Andrew H. Gasperecz
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Initial Licensure Fee and Annual License
Renewal Fee Schedule**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
All costs of the Proprietary Schools Bureau are self-generated by license fees paid to the bureau by licensees. There will be an estimated cost of \$50 for the printing and mailing of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will amend the initial licensure fee and the annual license renewal fee schedule as per Act 762 of 1993. It is estimated that this proposed rule could increase revenue generated from initial licensure fees by approximately \$21,000 and could increase the revenue generated from annual licensure renewal fees by approximately \$125,000.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There may be some proprietary schools that will incur additional costs due to the new licensure fee schedule as per Act 762 of 1993.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Andrew H. Gasperecz
Executive Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Proprietary School Commission**

Student Protection Fund Claim Form (LAC 28:III)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Education intends to adopt the following rule to adopt the Student Protection Fund Claim Form (PSC-16, Appendix P).

WERE YOU ABLE TO COMPLETE THE COURSE OF STUDY PRIOR TO THE SCHOOL'S CLOSURE?

Yes _____ No _____

WERE YOU OFFERED AN OPPORTUNITY TO COMPLETE THE COURSE AT ANOTHER SCHOOL THAT WAS LOCATED A REASONABLE COMMUTING DISTANCE FROM THE CLOSED SCHOOL?

Yes _____ No _____

DID YOU ACCEPT THE TEACH-OUT OPTION? Yes _____ No _____

If no, explain: _____

IF A TEACH-OUT WAS OFFERED, WERE ANY ADDITIONAL COSTS INVOLVED?

Yes _____ No _____

If yes, explain: _____

WERE YOU ABLE TO TRANSFER THE CREDITS YOU EARNED FROM THE CLOSED SCHOOL TO ANOTHER SCHOOL WHICH OFFERED SIMILAR COURSES?

Yes _____ No _____

DID YOU RECEIVE A REFUND OR A DISCHARGE OF YOUR LOAN FROM ANY OTHER SOURCE SUCH AS THE SCHOOL OR ANOTHER TUITION RECOVERY PROGRAM? IF SO, HOW MUCH? _____ . WHAT WAS THE SOURCE OF THE REFUND? _____

PLEASE PROVIDE THE FOLLOWING INFORMATION WITH YOUR CLAIM FORM:

- a. copy of enrollment agreement;
- b. copies of canceled checks and or receipts if education was financed by student or parent;
- c. copies of documentation from lender showing amounts owed; and
- d. any documentation you feel will assist this office in assessing your claim.

COOPERATION AGREEMENT: As part of the consideration for the repayment of my loan under the Student Protection Fund, I hereby agree to cooperate with the Proprietary School Commission and the Louisiana Student Financial Assistance Commission in any enforcement action regarding collection of the loan at the closed school which I previously attended.

This cooperation means that I agree to testify about any information I provided to support the repayment of my loan; and that I agree to produce any documentation which was and/or is available to me in regard to the information I provided to support the repayment of my loan, including the execution of any affidavits which may be required with respect to the information.

By filing a claim against the Student Protection Fund under this Section, the claimant hereby relinquishes any right he or she may have against the owner or school for reimbursement of tuition, in favor of the State Board of Elementary and Secondary Education.

CLAIMANT

SOCIAL SECURITY NUMBER

DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3, 3141.8, 3141.14, 3141.18.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 19:

Interested persons may submit written comments to the following address: Andrew H. Gasperecz, Executive Secretary, Louisiana Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, through October 6, 1993. He is the person responsible for responding to inquiries regarding this proposed rule.

Andrew H. Gasperecz
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Student Protection Fund Claim Form**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
All costs of the Proprietary Schools Bureau are self-generated by license fees paid to the bureau by licensees. There will be an estimated cost of \$50 for the printing and mailing of this rule.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There will be no effect on revenue collections of state or local governmental units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**
There will be no cost or economic benefits to directly affected persons or non-governmental groups.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
There will be no effect on competition or employment.

Andrew H. Gasperecz
Executive Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Proprietary School Commission**

Student Protection Fund Policies (LAC 28:III)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Education intends to adopt the following rule to amend Bulletin 1443 by adopting policies and procedures regarding the Student Protection Fund.

**TITLE 28
EDUCATION**

Part III. Proprietary schools

Student Protection Fund Policies

Introduction

- A. Public Law 102-325 enacted July 23, 1992, reauthorized

Higher Education Act. The Program Integrity Provisions, Part H, Subpart 3 discuss Eligibility and Certification Procedures for a participating institution, effective on and after October 1, 1992. Under Part H, the Financial Responsibility Standards (§498 (c) (5) (A)) provide that the secretary of the U.S. Department of Education shall: establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds.

B. The law provides that the secretary shall exempt an institution of higher education from the cash reserve requirements if he determines that:

1. the institution is located in a state that has a tuition recovery fund that ensures that there are sufficient cash reserves to ensure repayment of any required refunds,
2. that the institution contributes to the fund, and;
3. the institution otherwise has legal authority to operate within the state.

C. In Louisiana the three exemption provisions will be met by the previously established Proprietary School Student Protection Fund and program.

D. The tuition recovery fund operations will comply with provisions of R.S. 17:3141.16-18.

Student Protection Fund Policy

A. The Student Protection Fund is administered by the Louisiana Board of Elementary and Secondary Education, Advisory Commission on Proprietary Schools and shall be subjected to audit and review by the Office of the Legislative Auditor.

B. Required refunds due from the Student Protection Fund will be provided on a pro rata basis.

C. The administrator of the Student Protection Fund will enter into an agreement with the state guaranty agency that any refunds will be allocated in the following preferential order:

1. present holder of the loan, whether lender or LASFAC, and;
2. any remaining balance to the borrower.

D. Administration of the Student Protection Fund is subject to review by the U.S. Department of Education and the state guaranty agency.

1. The Proprietary Schools Bureau shall retain all records pertaining to the determination of payment or denial of refunds for a period of not less than five years after final determination has been made.

2. Records shall be maintained in an organized manner.

3. Records shall be readily accessible by USDE and guarantee agency auditors.

Student Protection Fund Procedures

A. An application for tuition recovery, in the form of a student affidavit, may be submitted after reasonable efforts to compensate the student when the following resources have been exhausted:

1. provide teachout,
2. acquire refund from the school,
3. acquire refund from surety bond required by R.S. 17:3141.5 (D),
4. acquire refund from any other school resources, and
5. acquire refund from USDE, Closed Schools Section.

B. As required by U.S. Department of Education, Dear Colleague 93-L-153, the affidavit will provide the borrower's name, social security number, address, the closed school's name and address, the borrower's educational program and, to the best of the borrower's knowledge, the dates of enrollment at the closed school. The affidavit will also include certifications that the borrower:

1. was enrolled and in attendance at the closed school on the date it closed and had not graduated or completed the course of study,

2. was unable to complete the course of study in which he/she was enrolled because of the school's closure,

3. was not offered an opportunity to complete the remainder of the course of study at another school that was located at a reasonable commuting distance from the closed school,

4. was unable to obtain credit towards a degree, certificate or diploma that the borrower could transfer to another school that offered courses similar to those offered by the closed school, and;

5. did not receive a refund from any other source, such as any federal tuition recovery program or a discharge of the loan obligation under any federal closed-school provisions.

C. Lenders holding loans eligible for refunds under the Student Protection Fund may submit the claim to the Proprietary School Commission without undertaking any additional collection activity.

D. The pro rata refund will be for outstanding balances on Federal Stafford subsidized, Federal Stafford unsubsidized, Federal SLS, and Federal PLUS loans, in accordance with U.S. Department of Education, Dear Colleague Gen-92-21, page 88, for periods of enrollment on or after July 1, 1993.

E. Refund calculations will be based upon copies of enrollment contracts, student ledger cards, and other pertinent documents submitted by the student.

F. Students applying for relief to the Student Protection Fund will be notified of the determination within 60 days of receipt of the application by the Louisiana Proprietary School Bureau.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3, 3141.8, 3141.14, 3141.18.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 19:

Interested persons may submit written comments to the following address: Andrew H. Gasperez, Executive Secretary, Louisiana Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064 through October 6, 1993. He is the person responsible for responding to inquiries regarding this proposed rule.

Andrew H. Gasperez
Executive Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Student Protection Fund Policies

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
All costs of the Proprietary Schools Bureau are self-generated by license fees paid to the bureau by licensees. There will be an estimated cost of \$50 for printing and mailing this rule.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There will be no effect on revenue collections of state or local governmental units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**
There will be no cost or economic benefits to directly affected persons or non-governmental groups.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
There will be no effect on competition or employment.

Andrew H. Gasperez
Executive Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Proprietary School Commission**

Surety Bond Claim Form (LAC 28:III)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Education, Proprietary School Commission intends to adopt the following Surety Bond Claim Form (PSC-15, Appendix O).

Title 28
EDUCATION
Part III. Proprietary Schools
Surety Bond Claim Form

PSC-15

SURETY BOND CLAIM FORM

APPENDIX O

STATE OF LOUISIANA
DEPARTMENT OF EDUCATION
PROPRIETARY SCHOOL COMMISSION
POST OFFICE BOX 94064
BATON ROUGE, LOUISIANA 70804-9064

CLAIMANT: _____ **AMOUNT OF CLAIM:** _____
Last First Middle

ADDRESS: _____
Street No. or P.O. Box City State Zip

TELEPHONE NUMBER: Home () _____ Work () _____

NAME/ADDRESS/TELEPHONE NUMBER OF NEXT OF KIN _____
Last First Middle

Street No. or P.O. Box City State Zip Telephone Number

NAME/ADDRESS OF SCHOOL CLAIM FILED AGAINST: _____

COURSE OF INSTRUCTION: _____

DATES OF ATTENDANCE: From _____ to _____

GRADUATED: Yes ___ No ___ **IF YES/DATE:** _____
Month Day Year

IF NO/REASON FOR NOT GRADUATING: _____

METHOD OF PAYMENT TO SCHOOL: Cash () \$ _____ ; Pell () \$ _____ ;
GSL () \$ _____ ; Other () \$ _____

If other, Explain: _____

REASON FOR LEAVING: _____

REASON FOR WITHDRAWING: _____

NAME/ADDRESS OF LENDER: _____

PLEASE PROVIDE THE FOLLOWING INFORMATION WITH YOUR CLAIM FORM:

- a. copy of enrollment agreement;
- b. copies of canceled checks and or receipts if education was financed by student or parent;
- c. copies of documentation from lender showing amounts owed; and
- d. any documentation you feel will assist this office in assessing your claim.

By filing a claim against the Surety Bond under this Section, the claimant hereby relinquishes any right he or she may have against the owner or school for reimbursement of tuition, in favor of the State Board of Elementary and Secondary Education.

CLAIMANT

SOCIAL SECURITY NUMBER

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3, 3141.8, 3141.14, 3141.18.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary School Commission, LR 19:

Interested persons may submit written comments to the following address: Andrew H. Gasperecz, Executive Secretary, Louisiana Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, through October 6, 1993. He is the person responsible for responding to inquiries regarding this proposed rule.

Andrew H. Gasperecz
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Surety Bond Claim Form
(PSC-15, Appendix O)**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
All costs of the Proprietary Schools Bureau are self-generated by license fees paid to the bureau by licensees. There will be an estimated cost of \$50 for printing and mailing of this rule.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There will be no effect on revenue collections of state or local governmental units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**
There will be no cost or economic benefits to directly affected persons or non-governmental groups.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
There will be no effect on competition or employment.

Andrew H. Gasperecz
Executive Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Electronic Funds Transfer (EFT)

The Student Financial Assistance Commission announces its intention to amend the Loan Program Policy and Procedure Manual to provide policies and procedures for electronic funds transfer (EFT). Sections 6.1.15 and 6.2.17 will be added to the manual as follows:

6.1.15 Electronic Funds Transfer (EFT) Policy

A. Electronic Funds Transfer Permitted

Federal regulations (CFR 682.207) permit lenders to disburse FFELP funds to postsecondary institutions via EFT if so authorized by the guarantor. Provided that both the lender and the school participating in the electronic transfer of LASFAC guaranteed funds utilize the LASFAC policies and procedures, they will be considered authorized by LASFAC.

EFT replaces paper transactions (i.e., checks, drafts) with the electronic transfer of funds from the originating lender to the school. EFT allows those lending and postsecondary institutions participating under the LASFAC guarantee a state-of-the-art method by which funds and documentation may be transmitted.

B. School Participation Criteria

1. School cohort default rate must not exceed 20 percent each year for the past three years.
2. School default rate with LASFAC must not exceed 20 percent each year for the past three years.
3. School annual loan volume must have exceeded \$3.5 million for the past two years.
4. School must have participated in the Part B student loan programs for at least five years immediately preceding the application for electronic funds transfer/electronic data interchange (EFT/EDI).
5. No school facing limitation, suspension or termination proceedings or legal action by the U.S. Department of Education, a guaranty agency, the Office of the Inspector General, the Office of the Attorney General or any other state or federal agency may participate in EFT/EDI.
6. Any school or lender with adverse program review or audit findings related to the student loan program or accounting procedures will not be permitted to participate in EFT/EDI.
7. Minimum program length must be 600 clock hours.
8. Loan cancellations may not exceed 25 percent of loans guaranteed per enrollment period.
9. Student borrower withdrawal rate from the participating school may not exceed 25 percent per enrollment period.
10. Refunds, repayments and reports from the school must historically have been submitted/paid in a timely manner.

C. Lender Participation Criteria

1. Lenders must have participated in the FFELP for at least three years and have exhibited administrative capability.
2. Lenders may not require a school to share the float on funds in the restricted EFT account or accept payments from

the school in order to insure the lender's continued willingness to make loans.

D. Administrative Requirements

The school and lender participating in EFT procedures must adequately address:

1. Confirmation Procedures

Such procedures must assure that funds transferred have been received by the school and properly credited to the borrower's account.

2. Reconciliation Procedures

a. Adequate reconciliation procedures should be in place at the school to ensure that funds not credited to the student's account are refunded to the lender in a timely manner and that the funds sent from the school to the lender are received by the lender.

b. These procedures must provide for a method to notify the lender of cancellation of a loan and return of such funds to the lender.

c. These procedures may be EDI based or paper based.

3. Audit Trail

Institutions must have the technical and electronic capability to provide a clear audit trail of all transactions relating to EFT/EDI.

4. Records Retention

a. School records relating to EFT/EDI must be maintained until five years following pay-off of the loan.

b. The school may contract with a lender or agency to maintain such records on the school's behalf.

c. In addition to conventional record retention requirements for all Title IV student loan programs, schools and lenders must be prepared to retain paper or electronic records for all entries and transactions relating to each EFT/EDI transaction.

* * *

6.2.17 Electronic Funds Transfer Procedures

A. Participation

1. Lenders and schools who wish to participate in LASFAC's electronic funds transfer (EFT) process must each sign the "Agreement among Lender, School and LASFAC for the Participation in Electronic Funds Transfer (EFT)."

EFT is an optional method for transferring Federal Family Education Loan Program (FFELP) funds to schools to be delivered to student borrowers. The EFT Agreement and this document describe the procedures and regulations LASFAC requires schools and lenders to follow to participate in the EFT process.

2. For a school to initiate or continue participation in LASFAC's EFT agreement, the most recently published USDE calculated cohort default rate must remain at or below 20 percent. The school must have participated in the FFELP program for at least five years, and exhibit administrative capability, which includes but is not limited to fiscal responsibility, record-keeping and accounting capability, and the conducting of entrance and exit counseling.

3. Lenders and schools who participate in LASFAC's EFT process must comply with all applicable statutes, regulations and LASFAC rules. Specifically, federal regulations that apply include, but are not limited to, 34 Sec.

682.207, 682.610, 682.604 and 682.414 and LASFAC's Policy and Procedure Manual.

4. For students who do not wish to participate in the EFT process, a method to obtain FFELP funds via standard check disbursement must be available.

B. Record Layout

LASFAC provides a suggested "Disbursement Data Record Layout for Magnetic Tape or Telecommunications Transfer" that a lender may use to transfer the student record data to the school.

C. Disbursement and School Receipt of Funds

1. Proceeds for all disbursements may not be transferred by the lender to the school earlier than the disbursement date established by the school in compliance with federal requirements. The lender may not transfer funds to the school's restricted account earlier than 30 days prior to the beginning of the loan period.

2. LASFAC recommends that the school establish a separate and restricted bank account for the receipt of all FFELP loan funds. If the school does not establish a separate and restricted bank account, the school must deposit the funds into its Federal Financial Aid bank account and must maintain a separate general ledger control account, which is used for FFELP purposes only.

D. Borrower Notification

1. The lender must notify the student when funds are transferred to the school on his behalf. The notification must contain specific information about the loan and remind the student that the funds must be repaid.

2. LASFAC requires that each school participating in EFT notify students of the following information:

a. The lender selected by the student will transmit student loan funds to the school through the EFT process.

b. The student has the option to revoke his EFT authority and receive his funds by check.

c. The student will be required to sign a "Borrower Authorization Statement" no earlier than 30 days prior to the beginning date of the loan period.

d. A statement which reflects that the student loan proceeds (which must be repaid) have been credited to the student's account must be produced by the school and given to the student. The student's fee bill or receipt may be imprinted with this information.

e. The method by which the student can receive any excess funds; however, in no case will those funds be released to the student more than 10 days prior to the beginning date of the applicable disbursement period.

E. Borrower Authorization Statement

The common application/promissory note includes an Electronic Fund Transfer authorization statement (Item 16 of the application) for electronic transfer of funds. ED has determined that this certification provision will meet the requirements of 34 CFR § 682.207(b)(1)(ii)(B) if the school provides a notice to the borrower either 30 days before the date the school credits the student's account with the loan proceeds or not later than 30 days after that date notifying the borrower that the funds have been credited to the borrower's account at the school. If a student uses the common application, does not use the checkoff to indicate he wants

EFT disbursement, and later decides he wants EFT, the lender and school must utilize the Borrower Authorization Statement within thirty days of the transfer. ED is not prescribing the form of the notice. However, a billing statement, award letter, receipt form or other appropriate notification procedure by the institution could meet this requirement. For any application in use other than the common application, however, a Borrower Authorization Statement is required and the procedures herein must be followed.

LASFAC will provide a computer generated "Borrower Authorization Statement" (BAS) form for use by borrower's attending schools at which EFT is available, for the school or the lender to obtain the student's authorization to transfer funds into his student account. A different Borrower Authorization Statement may be used; however, in this case, LASFAC must review and approve the language to be used on the statement.

1. The BAS may not be signed by the student more than 30 days prior to the beginning date of the loan period. LASFAC requires that the student be provided a copy of the BAS.

2. The borrower may not provide power-of-attorney to any person or institution for the purpose of executing the Borrower Authorization Statement except that, at the request of the borrower, a student who is studying outside the U.S. in a program of study approved for credit by the home institution at which the student is enrolled, the Borrower's Authorization Statement may be executed pursuant to an authorized power-of-attorney.

3. The BAS will be handled in one of the following ways.

a. If the school obtains the BAS, whether due to older form of application or to denial of EFT on common application and subsequent change of mind, the following steps should be followed:

i. The school may send or give the BAS to the student who must sign and date it no earlier than 30 days prior to the loan period begin date.

ii. The school obtains the student's signature on a BAS.

iii. The original of the BAS must be sent to the lender on a schedule determined between the lender and the school.

iv. The school is not required to retain an exact copy of the BAS; the school should, however, archive receipt of the BAS through the school's usual record retention methods.

v. The lender transmits funds to the school according to Paragraph F of these procedures.

vi. The school may not apply funds to the student's account or deliver funds to the student until the signed BAS has been received, and then only in accordance with Section 682.604d of the regulations.

b. If the lender obtains the BAS, do the following:

i. The lender may send or give the BAS to the student who must sign and date it no earlier than 30 days prior to the loan period begin date.

ii. The lender obtains the student's signature on the BAS.

iii. The lender retains the original copy of the BAS, acting as an agent for the school.

iv. The lender does not transmit funds to the school until the signed BAS is received.

F. Release or Return of Funds

The school may credit the student's account and/or deliver the proceeds to the student in accordance with Federal Regulations and LASFAC policy governing the negotiations of student loan funds, provided the student is registered and meets all other conditions of eligibility. In no case may EFT funds be applied to a student's account earlier than 21 days prior to the loan period begin date. If the student is a first time, first year undergraduate borrower, funds may not be applied to the student's account earlier than 30 days after the first day of the student's program of study.

1. If excess funds exist, they may not be disbursed to the student earlier than 10 days prior to the first day of classes of the period of enrollment for which the loan is intended. If the student requests the school to retain the excess funds to assist the student in managing his funds, the school must obtain that authorization from the student through a separate form.

2. For enrolled students, the school has 45 days from the receipt date of the student's funds to credit the funds to the student's account or return the funds to the lender unless the provisions of 6.2.12 of this manual apply.

3. For students who do not meet enrollment requirements at the time of receipt of funds, the school shall return the funds to the lender within 30 days after the date on which the school determines that the student did not register or has withdrawn.

4. For students who cease attendance or drop to less than half-time status after receipt of the funds, the school must return any refund to the lender within 30 days after the date on which the school determines that the student no longer meets eligibility requirements, but in no case should it be returned over 60 days after the student actually leaves school.

5. In no case may funds ever be delivered to the student if the time from when the funds were transferred to the school to when funds are delivered exceeds 120 days.

G. Adequate reconciliation procedures must be in place at the school to ensure that funds not credited to a student's account are refunded to the lender in a timely manner and that funds released to the student can be traced through audit procedures. Such reconciliation procedures must also provide for a method to notify the lender of cancellation of a loan and return of such funds to the lender.

H. Record Retention

LASFAC recommends that the school inform the lender (or LASFAC) of the disposition of EFT'd funds deposited in each student's account. Confirmation and reconciliation procedures and proper audit trails to track all transactions pertaining to the loan must exist. LASFAC suggests that the following information be provided:

1. School Code
2. Borrower Name (Last, First, MI)
3. Borrower SSN
4. LASFAC Loan Number
5. Lender Code
6. Status Code
 - a. student is less than half-time
 - b. student withdrew/not enrolled/not eligible

- c. student graduated
 - d. student overawarded
 - e. student request
 - f. 45 day limit
7. Date of Status Code Action, e.g., withdrawal date
 8. Program (Stafford, SLS)
 9. Amount Applied to Student's Account
 10. Amount Returning to Lender
 11. Amount Released to Student (Total of 9, 10 and 11 must equal the full disbursement).

If the school does not provide all the information listed in item number H to the lender or LASFAC, the school is responsible for retaining this information through their normal archive methods for five years beyond when the loan is paid in full or paid by claim. Such information must be accessible by LASFAC as necessary to insure compliance with the loan program regulations or to prove receipt of the funds by the borrower. If the school does not wish to retain the above information, the information may be sent to LASFAC, either via paper or electronic medium, such as tele-transmission, tape or diskette.

I. These procedures are current as of May, 1993. Should statute or rules and regulations change, LASFAC will make every effort to promptly notify schools and lenders of the changes.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., November 20, 1993 to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Electronic Funds Transfer**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs are anticipated to implement the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections are anticipated from the implementation of the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Guaranteed student loan borrowers will enjoy the convenience of electronic funds transfer rather than paper check handling after the implementation of the proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The implementation of the proposed rule will make this agency more competitive with private sector guarantors who have made electronic transfer of funds available already.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Late Guarantee

The Louisiana Student Financial Assistance Commission announces its intention to permit issue of a loan guarantee after the last day of the loan period or last day of attendance as at least a half-time student. Policy 6.1.8 A is being revised as follows:

6.1.8 Guarantee and Duration of Guarantee Commitment

A. LASFAC will guarantee the loan of any applicant who, to the satisfaction of LASFAC, meets the eligibility criteria outlined in this manual. Provided that the school certifies the loan application during the period of enrollment, LASFAC will issue a loan guarantee after the last day of the loan period or after the borrower's last day of attendance as at least a half-time student if the disbursement will meet the late disbursement policy defined in Section 6.2.12 of this manual. Such authorized late guarantee and disbursement may be entered on LOSFA's automated system without documentation for up to 30 days after the last day of the loan period or after the borrower's last day of attendance as at least a half-time student. The Request for Late Disbursement form, documenting the reason for the late guarantee will be required and must be submitted to LASFAC for loans guaranteed from day 31 to day 60 after the end of the loan period or of at least half-time attendance.

* * *

Interested persons may submit written comments on the regulations until 4:30 p.m., November 20, 1993, addressed to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Guarantee After Last Day of Loan Period

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs are anticipated from the implementation of this rule. The agency's budget provides for reproduction and mailing costs for rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No change in revenue collections is anticipated from the implementation of this rule. The agency will now be able to serve those borrowers who have paperwork delays by issuing a guarantee for their loan.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Provided their loan application is certified by the school before the last class day, borrowers who have paperwork delays

will be enabled to receive a guarantee on their student loan with the implementation of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change will make this agency more competitive with private sector guarantors who have already provided for guarantee after the last day of the loan period.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

LEO Alternative Employer Repayment

The Louisiana Student Financial Assistance Commission announces its intention to amend the Louisiana Employment Opportunity (LEO) Loan Program Policy and Procedure Manual to provide a procedure to reestablish repayment after the borrower has left the employ of the original employer prior to completion of repaying the loan. Section 4.2.8 will be added to the manual as follows:

4.2.8 How Lender will Conduct Due Diligence in Establishing and Processing LEO Repayment when Borrower has Terminated Employment with Program Employer

A. Holder reestablishes the terms of LEO loan borrower's repayment:

1. When notified by the borrower, LASFAC or the prior employer that the trainee has terminated employment at the borrowers option, or has accepted employment with another company:

- a. use LASFAC's policy regarding repayment terms; and
- b. determine the remaining amount owed and remaining repayment period available;
- c. the lender shall forbear and accrue interest through the revised first payment due date.

2. If notified late, within 30 days after being notified, the lender shall:

- a. use LASFAC's policy regarding repayment terms; and
- b. mail a properly completed repayment schedule to the borrower. The first payment due date must fall not less than 15, nor more than 30 days from the date the lender mails the repayment schedule.
- c. document the file as indicated in 4.2.7 A 2 b, c and d.

3. Retain a copy of the repayment schedule sent to the borrower.

B. If contacted by the borrower to renegotiate the terms of his repayment, do so only:

1. if the lender wishes to renegotiate; and
 2. within LASFAC's policy regarding repayment terms.
- C. If the lender wishes to grant a forbearance while the

borrower is in repayment status do so within LASFAC's policies and procedures for granting forbearance under Paragraph 5.3.

D. If the borrower becomes delinquent while in repayment status, handle the delinquency in accordance with instruction on How to Pursue a Delinquent Borrower, Paragraph 7.2.1.

E. When the borrower pays his LEO loan in full, handle in accordance with instructions 4.2.7 E 1-3.

F. A holder shall not use the rule of 78's to calculate the outstanding principal balance of a loan.

Interested persons may submit written comments on the regulations until 4:30 p.m., November 20, 1993 addressed to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn,
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: LEO Alternative Employer Repayment**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs are anticipated to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No change in revenue collections will result from the implementation of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This rule provides a procedure to arrange collection of the training loan provided to a borrower if that borrower leaves employment with the training employer after having received the benefit of training.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Award Funding Procedure

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to amend the Scholarship/Grant Policy and Procedure Manual by adding Subparagraph B.3 to Chapter IX (Funding and Charges).

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the regulations until 4:30 p.m., November 20, 1993 addressed to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Award Funding Procedure**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
We anticipate no costs to result from the implementation of this rule. The agency's budget provides for reproduction and mailing costs for rule changes. Efficient return on staff time dictates that individual awards to first time eligible students not be made if the amount prorated is insufficient to award at least 10 percent of the students' tuition.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
We anticipate no change in revenue collections to result from the implementation of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
We anticipate the equitable distribution of available funding to result from the implementation of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
We anticipate no impact on competition and employment to result from the implementation of this rule.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Filling of Gasoline Storage Vessels; Control of
Emissions from the Chemical Woodpulp
Industry (LAC 33:III.2131, 2301) (AQ79)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2054 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.2131 and 2301, (AQ79).

This proposal is a change to an existing rule, §2131, so as to include the prohibition of any transfer of gasoline to be caused or allowed by any person. The change in §2301 is to conform with LAC 33:III.3533.A.4, Standards of Performance

for Kraft Pulp Mills (Subpart BB) and Federal Rule 40 CFR 60.238.

These proposed regulations are to become effective on December 20, 1993, or upon publication in the *Louisiana Register*.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 21. Control of Emission of Organic Compounds
§2131. Filling of Gasoline Storage Vessels

A. Control Requirement. No person shall cause or allow the transfer of gasoline from any delivery vessel into any stationary storage container unless such container is equipped with a submerged fill pipe and unless the displaced vapor emissions from submerged filling of the container are processed by a vapor recovery system which reduces such emissions by at least 90 percent.

* * *

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 16:609 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR: 19

Chapter 23. Control of Emissions for Specific Industries¹

Subchapter A—Chemical Woodpulp Industry
§2301. Control of Emissions from the Chemical Woodpulp Industry

* * *

D. Emissions Limitations. No person shall cause, suffer, allow or permit emissions to the atmosphere in excess of the limitations stated in this Subchapter. Notwithstanding the specific limits set forth in this Subchapter, in order to maintain the lowest possible emission of air contaminants, the highest and best practicable treatment and control currently available shall be provided in every case of new construction and/or modernization.

* * *

3. Total Reduced Sulfur Emissions. Emissions of Total Reduced Sulfur (TRS) from existing sources specified below shall not exceed the following limits:

* * *

f. smelt dissolving tanks, .016 grams per kilogram black liquor solids fired. Compliance with the particulate emission limits of LAC 33:III.2301.D.1.b. by a scrubbing device employing fresh water as the scrubbing medium make up will be accepted as evidence of adequate TRS control on smelt dissolving tanks. Emission limits are given in terms of 12-hour averages. For recovery furnaces, one percent, and for lime kilns, two percent of all 12-hour TRS averages per quarter year above the specified level, under conditions of proper operation and maintenance, in the absence of start ups, shutdowns and malfunctions, are not considered to be violations of the emission limitation. These are not running

¹Regulation of Emissions of Volatile Organic Compounds for Certain Industries are presented in Chapter 21.

averages, but are instead for discrete contiguous 12-hour periods of time;

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:

A public hearing will be held on October 25, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. 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 David Hughes 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 Tuesday, October 26, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810 or to fax number (504) 765-0486. Commentors should reference this proposed regulation by the Log AQ79.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Gasoline Storage Vessels; Chemical Woodpulp Industry

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings expected from this proposal for changes §§2131 and 2301. The change in §2301 is to conform with LAC 33:III.3533.A.4, Standards of Performance for Kraft Pulp Mills (Subpart BB) and Federal rule 40 CFR 60.283.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact is expected on revenue collections as a result of changes to §§2131 and 2301.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no costs. This is a clarification of the wording to insure legal completeness in both §§2131 and 2301.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is not any anticipated effect on competition and employment from changes in §§2131 and 2301.

Gus Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Radiation Safety Requirements for Industrial Radiographic
Operations (LAC 33:XV.Chapter 5)(NE08)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2101 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection Division Regulations, LAC 33:XV.Chapter 5, (Log NE08).

This rule will amend the Radiation Protection Division's regulations concerning industrial radiography storage surveys and quarterly audits, and safety requirements for industrial radiographic equipment. With this rule change, the state regulations will be updated to be in compliance with federal regulations published on May 21, 1991, Vol. 56/No. 98, Page 23391.

These proposed regulations are scheduled to become effective on December 20, 1993, or upon publication in the *Louisiana Register*.

A public hearing will be held on October 25, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. 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 David Hughes 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 Tuesday, October 26, 1993, at 4:30 p.m., to David Hughes, 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 NE08.

This proposed regulation is available for inspection at the following DEQ locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508 or from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, phone (504)342-5015.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Radiation Safety Requirements for Industrial
Radiographic Operations (LAC 33:XV.Chapter 5)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No implementation costs or economic benefit to directly affected persons is anticipated as a result of this rule, since it is required to maintain authorization from the NRC to regulate radioactive material.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed rule on competition and employment is anticipated.

Gustave Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Notification Regulations and Procedures for Unauthorized
Discharges (LAC 33:I.Subpart 2)(OS17)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2025(J) et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary Regulations, LAC 33:I.Subpart 2.Chapter 39, (Log OS17).

These proposed amendments will require notification to the Department of Environmental Quality of groundwater contamination resulting from any unauthorized discharge. They will also add a definition of contamination (environmental) consistent with LAC 33:VII.115. Reportable quantities (RQs) of 1000 lbs for m-Cresol (D024) and 1 lb for lead (D008) under the characteristics of toxicity were inadvertently omitted in a previous rulemaking and are now being proposed.

These proposed regulations are scheduled to become effective on December 20, 1993, or upon publication in the *Louisiana Register*.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 2. Notification Regulations
Chapter 39. Notification Regulations and Procedures
for Unauthorized Discharges
Subchapter A. General
§3905. Definitions

* * *

Contamination—the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2204(A), and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 19:

Subchapter C. Requirements for Prompt Notification
§3917. Notification Requirements for Unauthorized Discharges Which Do Not Cause an Emergency Condition

A. In the event of an unauthorized discharge which exceeds a reportable quantity specified in Subchapter E of this Chapter or which results in the contamination of the groundwaters of the state but which does not cause an emergency condition, the discharger shall notify the appropriate division in the Department of Environmental Quality by telephone within 24 hours after learning of the discharge. Notification should be made between the hours of 8 a.m. and 4:30 p.m. on working days:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2194(C), and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 19:

§3919. Notification Requirements for Unauthorized Discharges With Groundwater Contamination Impact

A. In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any subsurface or groundwater stratum, the discharger shall notify the appropriate division in the department by telephone within 24 hours after learning of the discharge, in accordance with LAC 33:I.3917 and 3923.

B. Written reports for any unauthorized discharge that requires verbal notification under Subsection A of this Section will be submitted by the discharger to the department in accordance with LAC 33:I.3925 within seven calendar days after the telephone notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), R.S. 30:2076(D), 30:2183(I), and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), repealed LR 19:1022 (August 1993), repromulgated and amended LR 19:

§3925. Written Notification Procedures for the Department of Environmental Quality

A. Written reports for any unauthorized discharge that requires verbal notification under LAC 33:I.3915.A, 3917, or 3919 will be submitted by the discharger to the department in accordance with this Section within seven calendar days after the telephone notification unless otherwise provided for in a valid permit or other division regulations.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2194(C), and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR:

Subchapter E. Reportable Quantities For Notification Of Unauthorized Discharges

§3927. Determination and Use of Reportable Quantity

* * *

C. The reportable quantity determined under this Subchapter, except where otherwise noted, will apply regardless of the environmental medium (land, air, water) into which the pollutant is discharged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2194(C) and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 19:

§3929. Exceptions to Reportable Quantity List

A. The reportable quantity for all radionuclides will be determined in accordance with the Louisiana Radiation Regulations, LAC 33:XV.Chapter 4.

B. Groundwater contamination resulting from any unauthorized discharge shall be reported in accordance with LAC 33:I.3917, 3919, 3923, and 3925.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), R.S. 30:2076(D), 30:2183(I) and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 19:

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

Pollutant	CAS No. ¹	RCRA ² Waste Number	Pounds
* * *			
Characteristic of Toxicity	N.A.		
* * *			
m-Cresol (D024)	N.A.		1000
* * *			
Lead (D008)	N.A.		1
* * *			

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2076(D), 30:2183(I), 30:2194(C), and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 19:

A public hearing will be held on October 25, 1993, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA. 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 David Hughes 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 Tuesday, October 26, 1993, at 4:30 p.m., to David Hughes, 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 OS17. Check or money order is required in advance for each copy of OS17.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Notification Regulations and Procedures for
Unauthorized Discharges (LAC 33:I.Subpart2)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no appreciable implementation costs in adopting these proposed amendments: the language for notification requirements regarding groundwater contamination resulting from any unauthorized discharge was inadvertently omitted in a previous rulemaking; a reportable quantity (RQ) of 1000 lbs for m-Cresol (D024) and 1 lb for lead (D008) were also inadvertently omitted. Adding the definition Contamination (environmental) should cause no appreciable implementation costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections in implementing these proposed amendments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

There should be no appreciable costs to non-governmental groups. The regulated community is now making such notifications under the present regulations. To require groundwater contamination notifications to be continued by the adoption of these proposed amendments into the notification regulations will add no appreciable costs to the regulated community.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no appreciable effect on competition and employment as a result of the adoption of these proposed amendments.

James B. Thompson, III
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Importation of Foreign Hazardous Waste
(LAC 33:III.1101 and 1113) (HW 38)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33: V.Subpart I.1101 and 1113, (Log HW38).

This rule is necessary in order to establish standards for Louisiana hazardous waste treatment, storage, or disposal facilities that intend to import foreign generated hazardous waste. Prior to intended import of foreign hazardous waste, the facility is required to notify the department and publish advance notice in a major newspaper of general circulation in the area where the facility is located.

These proposed regulations are scheduled to become effective on December 20, 1993, or upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

**Subpart 1. Department of Environmental
Quality—Hazardous Waste**

Chapter 11. Generators

§1101. Applicability

* * *

B. Any person who imports hazardous waste into Louisiana must comply with the standards applicable to generators established in this Chapter. Any person who imports hazardous waste from a foreign country into Louisiana must ensure that the generator in the foreign country is identified and will properly characterize and ship the waste pursuant to the LHWR and LDPS regulations. If the importer detects any discrepancy with, or violation of, the applicable regulations, his recourse will be to reject the hazardous waste shipment and notify the administrative authority and the generator within 24 hours of the determination of such discrepancy and/or violation of the LHWR.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398-399 (May 1990), LR 19:

§1113. International Exports, Imports of Hazardous Waste

A. Applicability. Any person who exports/imports hazardous waste to/from a foreign country, from a point of departure or to a point of arrival in Louisiana, must comply with the requirements of this Chapter. This Section establishes requirements applicable to international exports and imports of hazardous waste. A transporter transporting hazardous waste for export or import must comply with applicable requirements of LAC 33:V.Chapter 13.

B. Reserved

C. General Requirements. International exports and imports of hazardous waste must comply with the applicable requirements of LAC 33:V.Chapters 11 and 13. Persons who import or export hazardous waste must demonstrate that:

1. notification in accordance with LAC 33:V.1113.D has been provided;
2. the appropriate authority in the receiving foreign country has consented to accept the hazardous waste;
3. consent to the shipment and notice to the department accompanies and is attached to the manifest (or shipping paper for exports and imports by water [bulk shipment]); and
4. the hazardous waste shipment conforms to the terms of the manifest and, if applicable, to the terms of the receiving country's written consent.

D. Notification of Intent to Export or Import Hazardous Waste

1. A primary exporter or importer of hazardous waste must notify the administrative authority of an intended export or import before such waste is scheduled to leave or enter the United States. A complete notification must be submitted to the department 60 days before the initial shipment is intended to be shipped off-site. If the country from which the waste is shipped requires more than 60 days' notice for the import of hazardous waste, then the greater time period for notice to the administrative authority will apply to the export/import of waste to/from Louisiana. This notification may cover export or import activities extending over a 12-month or lesser period. The notification must be in writing, signed by the primary exporter or importer, and include the following information:

- a. name, mailing address, telephone number, and EPA ID number of the primary exporter or importer;
- b. for each hazardous waste type:
 - i. a description of the hazardous waste and the EPA hazardous waste number (from 40 CFR Part 261, Subparts C and D), Louisiana Department of Public Safety and Corrections (or its successor agency) proper shipping name, hazard class, and ID number for each hazardous waste;
 - ii. the estimated frequency or rate at which such waste is to be exported and imported and the period of time over which such waste is to be exported and imported;

* * *

2. Notification shall be sent to the administrative authority of the Louisiana Department of Environmental Quality with "Attention: Notification to Export/Import" prominently displayed on the front of the envelope. Such notice shall be sent by certified mail.

3. Except for changes to the telephone number or decreases in the quantity indicated pursuant to Subsection D.1.b.iii of this Section, any changes to the original notification (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), must be provided to the administrative authority with a written re-notification of the change. The shipment cannot take place until consent to the changes is obtained from the exporting country, or the Louisiana administrative authority in case of imports (except for changes to Subsection D.1.b.iv and viii of this Section).

4. Upon request by the administrative authority, a primary exporter or importer shall furnish to the administrative authority any additional information to complete a notification.

5. The administrative authority will provide copies of complete notifications to the receiving country and any transit countries. A notification is deemed complete by the administrative authority when it satisfies the requirements of this Subsection. Where a claim of confidentiality is asserted with respect to the notification information required, the administrative authority may find the notification not complete until any such claim is resolved in accordance with LAC 33:V.317.C and 319.

6. When the foreign country consents to the receipt of the hazardous waste, the administrative authority will forward an acknowledgement of consent to the primary exporter for purposes of LAC 33:V.1113.E.8. Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, the administrative authority will notify the primary exporter in writing. The administrative authority will also notify the primary exporter of any responses from transit countries.

7. Any Louisiana facility receiving hazardous waste generated in a foreign country must publish a notice of intent to receive hazardous waste in a major newspaper of general circulation in the area where the facility is located. Such notice shall be a minimum of 3" x 3" in size and will contain the following information: name and address of the receiving facility, name of the country of origin of the hazardous waste, a brief description of the waste, the amount to be shipped, and the scheduled date of arrival. Publication must be made at the time notice of intent is submitted to the department and proof thereof shall be submitted to the administrative authority within 10 days of publication date.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 19:

A public hearing will be held on October 25, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290

Bluebonnet Boulevard, Baton Rouge, LA. 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 David Hughes 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 Tuesday, October 26, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810 or to fax number (504) 765-0486. Commentors should reference this proposed regulation by the Log HW38.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Importation of Foreign Hazardous Waste**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental expenditures is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
A minimal cost for publication of notices of intent to receive shipments of foreign hazardous waste will be borne by a small number of Louisiana hazardous waste treatment, storage, or disposal facilities. An estimate of this minimal cost is difficult to quantify because there is no available information on number of desired shipments.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed amendment on competition and employment is anticipated.

Glenn A. Miller
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

Ernie P. Broussard
Executive Director

NOTICE OF INTENT

**Office of the Governor
Department of Veterans Affairs**

State Aid Program (LAC 4:VII.917)

The Louisiana Department of Veterans Affairs intends to amend LAC 4:VII.917.B and E, Eligibility Requirements for the State Aid Program.

LAC 4:VII.917.B is being revised to remove specific wartime dates to read wartime period as defined by R.S. 29:251.2, so that the dates of any future declared war(s) will automatically be included and would not have to be accomplished through legislative action. By amending this rule, same would be in line with state law.

LAC 4:VII.917.E is being revised to add the word "immediately", which would put this rule in conformity with state law.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans Affairs

Subchapter B. State Aid Program

§917. Eligibility

* * *

B. A member of the armed forces of the United States of America must have been killed in action or died in active service from other causes or who is missing in action or who is a prisoner of war or veteran who died as a result of a service-connected disability incurred during a wartime period defined in R.S. 29:251.2.

* * *

E. The 100 percent service-connected veteran must have been a resident of Louisiana for at least two years immediately preceding admission of the child into a training institution.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:485 (October 1981), amended LR 13:743 (December 1987), LR 19:

These proposed amended rules are to become effective on December 20, 1993, or upon publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed amendments. Such comments should be submitted no later than October 29, 1993, at 4:30 p.m., to David C. Perkins, Deputy Director, Department of Veterans Affairs, Box 94095, Capitol Station, Baton Rouge, LA, 70804-9095 or to 1885 Wooddale Boulevard, Tenth Floor, Baton Rouge, LA 70806.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Aid Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Eligibility will not have any implementation cost to state or local governmental units nor students attending school under the program, nor educational institutions participating in the program.
The proposed rule change will bring the administrative rules in conformity with Act No. 350 of 1990, which has been implemented.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The adoption of the proposed amendments will not have any effect on revenue collections of state or local governmental nor educational institutions. The proposed rule change will bring the administrative rules in conformity with law, Act 350 of 1990, which has already been implemented.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no cost and/or economic impact on persons or non-governmental groups.
The proposed rule change will bring the administrative rules in conformity with state law, which has already been implemented by the department.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The adoption of the proposed amendments will not have any effect on competition and employment.

Ernie P. Broussard
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Facility Planning and Control

Instructions for Preparation of Capital Outlay Request
Forms (LAC 34:III.201)

Under the authority of R.S. 39:102.C., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Office of the Governor, Division of Administration, director of Facility Planning and Control gives notice of his intent to amend the Capital Outlay Budget Request Forms and Instructions.

The text of these proposed rules can be viewed in their entirety in the Emergency Rule Section of this September, 1993 *Louisiana Register* and are to become effective upon final rule publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed revisions. Such comments should be submitted no later than October 20, 1993, 4:30 p.m., to James Purpera, Facility Planning and Control, Box 94095, Baton Rouge, LA, 70804-9095, or to 1051 North Third Street, Room B31, Baton Rouge, LA.

Roger Magendie
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Capital Outlay Requests Revision

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no implementation costs or savings.

- 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 NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Roger Magendie
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Office of the Governor
Patient's Compensation Fund Oversight Board

Future Medical Care and Related Benefits
(LAC 37:III.Chapter 19)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., advertises its intent to adopt LAC 37:III.Chapter 19, as follows, which provides for and governs the administration and payment by the Fund of future medical care and related benefits for patients.

Title 37

INSURANCE

Part III. Patient's Compensation Oversight Board Chapter 19. Future Medical Care and Related Benefits §1901. Scope of Chapter

A. The rules of the Chapter provide for and govern the administration and payment by the fund of future medical care and related benefits for patients deemed to be in need of future care and related benefits pursuant to a final judgment issued by a court of competent jurisdiction or agreed to in a settlement reached between a patient and the fund.

B. The rules of the Chapter shall be applicable to all malpractice claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19: §1903. Definition

For purposes of this Chapter, "future medical care and related benefits" means all reasonable medical, surgical, hospitalization, physical rehabilitation, and custodial services, and includes drugs, prosthetic devices and other similar materials reasonably necessary in the provision of such services. "Future medical care and related benefits" shall not mean non-essential specialty items or devices of convenience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1905. Obligation of the Fund

A. The fund shall provide and/or fund the cost of all future medical care and related benefits, after the date of the accident and continuing as long as medical or surgical attention is reasonably necessary, that are made necessary by the health care provider's malpractice, pursuant to a final judgment issued by a court of competent jurisdiction or as agreed to in a settlement reached between a patient and the fund, unless the patient refuses to allow the future medical care and related benefits to be furnished.

B. The fund acknowledges that a court is required neither to choose the best medical treatment nor the most cost-efficient treatment for a patient. The intent of this Chapter is to distinguish between those devices which are reasonably necessary to a patient's treatment and those which are devices of convenience or non-essential specialty items for a patient.

C. Pursuant to the Act, the board has been, expressly and/or implicitly, vested with the responsibility and authority for the management, administration, operation and defense of the fund and, as a prudent administrator, it must insure that all future medical care costs and related benefits are reasonable and commensurate with the usual and customary costs of such care in the patient's community.

D. Payments for future medical care and related benefits shall be paid by the fund without regard to the \$500,000 limitation imposed in R.S. 40:1299.42.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1907. Claims for Future Medical Care and Related Benefits

A. A patient, who is deemed to be in need of future medical care and related benefits pursuant to a final judgment issued by a court of competent jurisdiction or as agreed to in a settlement reached between the patient and the fund, may make a claim to the fund through the board for future medical care and related benefits made necessary by the health care provider's malpractice.

B. If a patient's claim for future medical care and related benefits is extremely complex or is disputed, then the fund may refer the matter to medical or other experts or to its counsel for review or litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1909. Attorneys; Medical Experts; Architects; Adjusters

A.1. An attorney chosen to represent the fund pursuant to §1907 shall be an independent contractor of the state of Louisiana, shall meet all applicable requirements for an outside contractor retained by the state of Louisiana, and shall be chosen by the director of the Office of Risk Management or his designee. The attorney shall be licensed to practice law in the state of Louisiana.

2. Once a matter involving future medical care and related benefits is referred to an attorney pursuant to §1907, then the attorney shall be responsible for the matter to the extent of the assignment (i.e. investigation and/or litigation of a particular claim, issue or request). The attorney shall issue

status reports to the claims supervisor at least every 90 days until the matter is concluded.

3. The attorney chosen to represent the fund pursuant to §1907 may recommend any and all possible remedies to the fund, including litigation of any kind, and may hire or retain experts, subject to prior approval by the fund. The attorney shall utilize legal staff, including paralegals, nurse/paramedical personnel, clerks and investigators, where necessary. With prior approval from the claims supervisor, the attorney may appoint a case manager in cases where no case manager has been appointed.

B. Pursuant to §1907, medical experts may be retained directly by the fund for evaluation, diagnosis or, with patient consent or by court order, for treatment of the patient. All medical experts retained by the fund shall be licensed or otherwise certified by the state of Louisiana. However, consulting physicians, licensed to practice in states other than Louisiana, may be retained by the fund only if they are board-certified in the applicable area of specialty.

C. Pursuant to §1907, architects with special expertise in medical facility design, contractors and other building trade experts may be retained directly by the fund in future medical care cases involving issues of residential modifications or renovations. Architects retained by the fund shall be licensed by the state of Louisiana. Contractors retained by the fund shall be licensed or certified as general contractors by the state of Louisiana. Architects and contractors retained by the fund shall also possess experience in the design and construction of medical facility and/or "barrier free" residences.

D. Pursuant to §1907 and subject to fund approval, adjusters may be retained as independent contractors on the recommendation of the claims manager or of the attorney chosen to represent the fund pursuant to §1907.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1911. Examinations; Notice Requirements

A. The fund shall be entitled to have a patient submit to a physical or mental examination, by a health care provider of the fund's choice, from time to time to determine the patient's continued need of future medical care and related benefits, subject to the following requirements:

1. Notice in writing shall be delivered to or served upon the patient or the patient's counsel of record, specifying the time and place where the examination will be conducted. Delivery of the notice may be by certified mail or by hand delivery. Such notice shall be given at least 10 days prior to the time stated in the notice.

2. The place at which the examination is to be conducted shall not involve an unreasonable amount of travel for the patient, considering all of the circumstances.

3. It shall not be necessary for a patient who resides outside of Louisiana to come to this state for an examination unless so ordered by the court.

4. The examination shall be conducted by a health care provider licensed by the state of Louisiana or by the state wherein the patient resides.

B. Examinations may not be required by the fund more

frequently than at six-month intervals except that, upon application to the court having jurisdiction of the claim and for reasonable cause shown therefor, examinations within a shorter interval may be ordered.

C. Within 30 days after the examination, the patient shall be compensated, by the party requesting the examination, for all necessary and reasonable expenses incidental to submitting to the examination, including the reasonable costs of travel, meals, lodging or other direct expenses.

D. The patient shall be entitled to have a health care provider or an attorney of his choice, or both, present at the examination. The patient shall pay such health care provider or attorney himself.

E. The patient shall be promptly furnished with a copy of the report of the examination made by the health care provider conducting the examination on behalf of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1913. Choice of Health Care Provider

A patient entitled to future medical care and related benefits, as determined under this Chapter, shall be entitled to evaluation, diagnosis and treatment by the health care providers of the patient's choice; provided, however, that the health care provider rendering such evaluation, diagnosis or treatment shall be licensed to practice medicine in Louisiana or by the state in which the patient resides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1915. Psychological/Psychiatric Treatment and Counseling

The fund will provide and/or fund psychiatric/psychological testing, evaluation, diagnosis and treatment of a patient entitled to future medical care and related benefits, as determined under this Chapter, where these medical services are reasonable and are made necessary by the health care provider's malpractice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1917. Nursing Care; Sitter Care

A. The fund will provide and/or fund inpatient or outpatient nursing or sitter care when such care is required to provide reasonable medical, surgical, hospitalization, physical rehabilitation, or custodial services made necessary by the health care provider's malpractice, subject to the following limitations:

1. All nursing or sitter care shall be specifically prescribed or ordered by a patient's treating health care provider.

2. All nursing or sitter care shall be rendered by a licensed and/or qualified registered nurse or licensed practical nurse or by a sitter, a member of the patient's family or household, or other person as specifically approved by the fund.

3. There shall be a presumption that the person rendering

nursing or sitter care is qualified if the treating health care provider issues a statement that that person is competent and qualified to render the nursing or sitter care required by the patient.

4. All claims for nursing or sitter care payments must include a signed, detailed statement by the person rendering nursing or sitter care, setting forth the date, time and type of care rendered to and for the patient.

B. Providers of nursing or sitter care shall be funded at the usual and customary rate charged by similarly licensed or qualified health care providers in a patient's home state, city or town. However, nursing or sitter care provided by members of the patient's family or household will be funded at a rate not to exceed \$6 per hour regardless of the licensure or qualification of the provider.

C. The fund shall be entitled to periodic inspections or assessments of the physical environment in which the nursing or sitter care is being rendered. The fund may seek a judicial ruling to discontinue the payments for future medical care and related benefits if, upon inspection and recommendation of a licensed or qualified health care provider, it is determined that the physical environment in which the nursing or sitter care is being rendered is inadequate or inappropriate and not in the best interest of the patient.

D. The fund may seek a judicial ruling to discontinue the payments for future medical care and related benefits if, upon a physical or mental examination of the patient, pursuant to §1911, and recommendation of a licensed or qualified health care provider, it is determined that the nursing or sitter care being rendered is inadequate or inappropriate and not in the best interest of the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1919. Treatment Protocol

In cases where the future medical needs of the patient are so great that multi-disciplinary, long-term acute care is needed by the patient, and the patient and/or the patient's family, tutor, legal guardian or caregivers are deemed to be incapable of determining what treatment is necessary, then the fund may obtain or develop a treatment protocol for the patient. The patient will be provided with a copy of the written treatment protocol and will be asked to consent to the treatment or course of treatment proposed by the protocol prior to implementation of the protocol.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1921. Vehicles

A. The fund will provide and/or fund the cost of standard-modified vehicles or specialized-modified vehicles to patients entitled to receive future medical care and related benefits under this Section, when ownership and use of such vehicles are reasonably necessary in providing reasonable medical, surgical, hospitalization, physical rehabilitation, or custodial services made necessary by the health care provider's malpractice. The vehicles described herein are standard model, modified passenger vehicles of domestic manufacture

or standard model, modified vans of domestic manufacture. Alternatively, and at the fund's option, the fund will provide and/or fund modifications to the patient's vehicle when such modifications are reasonably necessary in the provision of such services.

B. The choice of vehicle, vendor of the vehicle, modifications thereto and inclusion or exclusion of option items on these vehicles will be at the sole discretion of the fund.

C. The fund will not provide nor fund the cost of any type of insurance for any such vehicle and will not provide nor fund the maintenance or operating costs on any vehicle modified by the fund or provided by the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1923. Ancillary Cost; Mileage

A. The fund will reimburse a patient (or the patient's family or caregivers) entitled to future medical care and related benefits under this Section for actual out-of-pocket ancillary costs of medical treatment and/or care to the patient, including but not limited to the actual costs of over-the-counter medicines and patient aids, the reasonable costs of hotel-motel accommodations and meals associated with physician appointments or treatment, when such costs are made necessary by the health care provider's malpractice.

B. The fund will reimburse a patient (or the patient's family or caregivers) entitled to future medical care and related benefits under this Section for actual mileage to and from physician appointments or treatment at a rate not to exceed \$.24 per mile or the current mileage rate allowance under applicable state guidelines.

C. The level of expense reimbursement pursuant to this Section shall not exceed the maximum allowable expenses under applicable state guidelines set for in the Travel Regulations, P.P.M. 49, Louisiana Register, Vol. 16, No. 7, p. 582.

D. Patients shall provide actual receipts or signed statements verifying the reasonable mileage for odometer readings to receive reimbursements pursuant to this Section. Expenses for hotel/motel accommodations and meals associated with physician appointments or treatment shall not be reimbursed without prior approval by the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1925. Modifications/Renovations to Patient's Residence

A. The fund will provide and/or fund the cost of modifications to a patient's residence which are reasonably necessary in providing reasonable medical, physical rehabilitation and custodial services for the patient and which are made necessary by the health care provider's malpractice. The fund will not provide nor fund the cost of devices of convenience.

B. The patient may be required to submit to a medical examination by a medical expert selected by the fund to specifically determine the patient's needs as they relate to the

home. Upon completion and receipt of the medical expert's report, the patient and/or the patient's family or caregivers will then be consulted by the case manager to determine specifically what modifications should be made to the home. The case manager, the fund's claims' supervisor, the claims' manager, the attorney for the fund, if one is selected, and the architect chosen by the fund will then review the report(s) of the medical expert(s) and the case manager, and then meet to determine what action will be taken as to the modifications of the home, within the specific guidelines listed below:

1. The fund will provide and/or fund the cost of modifications or renovations to the patient's existing home, including, but not limited to modifications of lavatories, including handicap accessible toilets, showers, ramps for ingress and egress, expanded doorways and expansion of rooms to accommodate medical devices required by the patient, which are reasonably necessary for the care and rehabilitation of the patient.

2. All renovations and/or modifications will be designed and built with "builders spec" or similar grade materials from plans drawn and/or approved by an architect obtained by the fund.

3. When the fund has provided and/or funded modifications or renovations to the home where the patient resides, the fund shall retain no interest in that residence. Where the home is owned by the patient's parents, relatives, caregivers or guardian, the fund reserves the right to require the owners of the home to execute a promissory note, mortgage or other instrument of security in favor of the patient in an amount equal to the increased value of the home as determined by a qualified appraiser retained by the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1927. Testimony; Communications

A. Any health care provider selected and paid by the fund who shall make or be present at an examination of the patient conducted pursuant to §1911 may be required to testify as to the conduct thereof and the findings so made.

B. Communications made by the patient during the examination conducted pursuant to §1911 by the health care provider shall not be considered privileged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1929. Fees and Costs

The fund shall pay all reasonable fees and costs of examinations, including the costs and fees of expert witnesses in any proceeding, where termination of medical care and related benefits is sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

§1931. Attorney Fees

A. Pursuant to its continuing jurisdiction, the district court, from which a final judgment has been issued in cases where

future medical care and related benefits have been determined to be needed by a patient, shall award reasonable attorney fees to the patient's attorney if the court finds that the fund unreasonably failed to pay for medical care and related benefits within 30 days after submission of a claim for payment of such benefits.

B. A patient and/or the patient's attorney shall not be entitled to attorney fees in any action to enforce rights pursuant to Subsection A of this Section if the patient fails or refuses to submit to examination in accordance with a notice and if the requirements of §1911 have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:

Interested persons may submit inquiries and written comments on the proposed rules until 4:30 p.m., October 20, 1993, to Suanne Grosskopf, Executive Director, Patient's Compensation Fund Oversight Board, 200 Lafayette Street, #600, Baton Rouge, LA 70801 and/or to Larry M. Roedel, General Counsel, Patient's Compensation Fund Oversight Board, 8440 Jefferson Highway, Third Floor, Baton Rouge, LA 70809.

Suanne Grosskopf
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Future Medical Care and Related Benefits
(LAC 37:III.19)**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no costs (savings) to other state or local governmental units as a result of these new rules. The costs to implement the new rules will include printing, copy charges, and associated costs of publication, administrative overhead expenses and legal fees, all of which should not exceed \$4,000. This amount will be paid by the Patient's Compensation Fund, R.S. 40:1299.44 et seq. from statutory dedications, i.e. absorbed/paid from available monies in the budget FY 93-94. There is no need at this time for increased staff to handle the implementation of these new rules.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no material effect on the revenue collections of state or local governmental units from implementation of these new proposed rules pertaining to future medical care and related benefits.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as these new proposed rules are a formalization of procedures and requirements currently utilized by the fund as set forth in the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq. The fund shall provide and/or fund the cost of future medical care and related benefits as set forth in these new proposed rules. However, additional paperwork and documentation may be required by the claimant patients and by the providers of future medical care and related benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Patient's Compensation Fund Oversight Board anticipates no effect on either competition or employment as a result of adopting the new proposed rules. These new proposed rules are a formalization of procedures and requirements currently used by the fund and will provide an organized and uniform basis to provide and/or fund future medical care and related benefits consistent with the Medical Malpractice Act, R.S. 40:1299.41, et seq.

Suanne Grosskopf
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Licensed Professional Vocational Rehabilitation
Counselors**

License, Practice, License Renewal, Definitions and Reciprocity (LAC 46:LXXXVI.503,703,705 and 707)

The Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, under authority of the Rehabilitation Counselor Licensing Act, R.S. 37:3441-3452 of the 1988 Legislature and R.S. 36:259(E)(21), and in accordance with the Administrative Procedure Act R.S. 49:950 et seq., proposes to adopt LAC 46:LXXXVI.707 and amend LAC 46:LXXXVI.503, 703, and 705 governing the practice of rehabilitation counseling.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXXXVI. Licensed Professional Vocational
Rehabilitation Counselors Board of Examiners
Chapter 5. License and Practice of Vocational
Rehabilitation Counseling
§503. Definitions**

* * *

C. *Practice of Rehabilitation Counseling*—rendering or offering to individuals, groups, organizations, or the general public rehabilitation services in private practice for compensation involving the application of principles, methods, or procedures of the rehabilitation counseling profession which include but are not limited to:

* * *

3. *Vocational Rehabilitation Services*—which includes, but is not limited to, vocational assessment, vocational counseling, education, and training services, including on-the-job training, self-employment plans, and job placement. For purposes of this Chapter, "vocational assessment" includes, but is not limited to, the administration, interpretation, and use of single scale screening tests of intelligence and tests of education, achievement, personal traits, interests, aptitudes, abilities, language, adaptive behavioral tests and symptom screening checklist, solely to define vocational goals and plan actions as

related to rehabilitation concerns, educational progress, and occupations and careers.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3443.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 19:

Chapter 7. Requirements for Licensure and Renewal of License

§703. Requirements

* * *

D. has declared special competencies and demonstrated professional competence by successfully passing the Certified Rehabilitation Counselor Examination offered by the Commission on Rehabilitation Counselor Certification, and forwarding such documentation to the board. As an alternative to the CRC Exam, the LRC Board of Examiners has instituted an exam to be administered to all applicants beginning after July 1, 1993, who have completed procedural and eligibility requirements. The exam is to be administered by the board of examiners at least twice each year. Those sitting for the exam will be required to pass the exam with a score determined by the board of examiners.

E. has received a Master's Degree in Rehabilitation Counseling or related field and two years of experience under the direct supervision of a licensed vocational rehabilitation counselor or a Bachelor's degree in Vocational Rehabilitation or related field and five years of work experience, working under the direct supervision of a licensed vocational rehabilitation counselor. An applicant may subtract one year of the required professional experience for successfully completing Ph.D. requirements in a rehabilitation counseling program acceptable to the Board. However, in no case, may the applicant have less than one year of the required professional experience.

1. **Supervision Requirements.** Rehabilitation counselors who employ or supervise other professionals or students will facilitate professional development of such individuals. They provide appropriate working conditions, timely evaluations, constructive consultation, and experience opportunities.

a. *Supervision* is defined as assisting the provisionally licensed counselor in developing expertise in methods of the professional counseling practice and in developing self-appraisal and professional development strategies. Supervision must comply with standards as set by the board. Exact details of supervision are contained in the "Supervisory Work Experience Plan" package published by and available through the LRC Board of Examiners office.

i. The board recommends one hour of supervision for every week of direct client contact as outlined. Supervision may not take place via mail, telephone, fax, computer, or video. This type of contact with supervisor may be counted under consultation; however, it cannot replace face-to-face supervisions as defined.

b. Acceptable modes for supervision of direct clinical contact are the following:

i. **Individual Supervision:** The supervisory session is conducted by an approved supervisor with one provisionally licensed counselor present.

ii. **Group Supervision:** The supervisory session is conducted by an approved supervisor with no more than two provisionally licensed counselors present.

iii. The LRC supervisor as opposed to the work supervisor may supervise no more than two persons at any one time unless the supervisor has no other caseload responsibilities, in which case he/she may supervise up to three counselors.

c. Most of the provisionally licensed counselor's direct contact with clients must be supervised by an approved supervisor or supervisors as defined below:

i. At least 2/3 of supervision time must be individual supervision as defined above. The remaining 1/3 may be either individual supervision or group supervision as defined above.

d. The counseling activities of the provisionally licensed counselor must be performed pursuant to the supervisor's order, control, oversight, guidance and full professional responsibility. The supervisor must read and co-sign all written reports including formal reports and progress reports prepared by the provisionally licensed counselor. The provisionally licensed counselor will remain under the full professional responsibility and supervision of the supervisor until he/she is fully licensed.

e. The process of supervision must encompass multiple strategies of supervision, including regularly scheduled live observation of counseling sessions. The process may also include discussion of the provisionally licensed counselor's self-reports, microtraining, interpersonal process recall, modeling, role-playing, and other supervisory techniques.

f. The supervisor must provide nurturance and support to the provisionally licensed counselor explaining the relationship of theory to practice, suggesting specific actions, assisting the provisionally licensed counselor in exploring various models for practice, and challenging discrepancies in the provisionally licensed counselor's practice.

g. The supervisor must ensure the provisionally licensed counselor familiarity with important literature in the field of rehabilitation.

h. The supervisor must provide training appropriate to the provisionally licensed counselor's intended area of expertise and practice.

i. The supervisor must model effective professional rehabilitation counseling practice.

j. The supervisor must ensure that the vocational rehabilitation counseling and the supervision of the vocational rehabilitation provisionally licensed counselor is completed in an appropriate professional setting.

k. The supervisor and the provisionally licensed counselor must share a similar area of specialty. Also:

i. the provisionally licensed counselor must also have received a letter of supervision approval from the board;

ii. the professional setting cannot include private practice in which the provisionally licensed counselor operates, manages or has an ownership interest in the private practice; and

iii. Supervisors may employ provisionally licensed counselors in their private practice setting. The supervisor may bill clients for services rendered by the provisionally licensed counselor, however, under no circumstances can the provisionally licensed counselor bill clients directly for services rendered by him/herself.

1. The supervisor must certify to the board that the provisionally licensed counselor has successfully complied with all requirements for supervised counseling experience.

2. Qualifications of a Supervisor

a. Those individuals who may provide supervision to provisionally licensed counselors must meet the following requirements:

i. Licensure Requirements. The supervisor must hold a Louisiana license as a Licensed Vocational Rehabilitation Counselor.

ii. Rehabilitation Counseling Practice. The supervisor must have been in practice in his/her field for at least five years.

iii. Training in Supervision. Supervisors must have successfully completed either (a) or (b) below:

(a). Graduate-Level Academic Training. At least one graduate-level academic course in counseling supervision. The course must have included at least 45 clock hours (equivalent to a three-credit hour semester course) of supervision training.

(b). Professional Training. A board-approved and sponsored professional training program in supervision is required. The training program must be established by the board and meet presentation standards established by the board. All LRCs choosing to become supervisors must complete supervisor training by January 1, 1995. The first training session will be held October 21, 1993, at the LRA/LARP Professional meeting in New Orleans. The board will conduct additional training sessions each year in other areas of the state at a nominal fee.

iv. One year of documented experience in the supervision of vocational rehabilitation case material.

b. A supervisor may not be a relative of the provisionally licensed counselor. Relative of the provisionally licensed counselor is defined as spouse, parent, child, sibling of the whole- or half-blood, grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship.

c. No person shall serve as a supervisor if his/her license is expired or subject to terms of probation, suspension, or revocation.

3. Responsibility of Applicant Under Supervision

a. During the period of supervised counseling experience an applicant will identify him/herself as a provisionally licensed counselor.

b. Each provisionally licensed counselor must provide his/her clients with a disclosure statement that includes:

i. his/her training status; and

ii. the name of his/her supervisor for licensure purposes.

c. A provisionally licensed counselor must comply with all laws and regulations related to the practice of vocational rehabilitation counseling.

d. A provisionally licensed counselor may not initiate a private practice during their period of supervised counseling experience. Provisionally licensed counselors who are employed within their supervisors' private practice setting cannot, under any circumstances, bill clients directly for services they render.

e. Upon completion of the required supervised counseling experience, the provisionally licensed counselor needs to submit an application form for licensure. Any individual who does not apply for licensure within three months after completing the required supervised rehabilitation counseling experience cannot continue to practice professional vocational rehabilitation counseling.

4. Registration of Supervised Experience. Beginning January 1, 1994, all proposed supervision arrangements must be approved by the board prior to the starting date of the supervised experience.

a. The provisionally licensed counselor will:

i. along with his/her supervisor provide the board with a written proposal outlining with as much specificity as possible the nature of the counseling duties to be performed by the provisionally licensed counselor and the nature of the supervision;

ii. submit this written proposal on forms provided by the board at least 60 days prior to the proposed starting date of the supervision;

iii. submit along with the written proposal the appropriate fee determined by the board.

b. Supervised experience rendered by the provisionally licensed counselor in an exempt setting needs to meet the requirements in this rule if that supervised experience is to meet the requirements for licensure.

c. Following the board's review, the provisionally licensed counselor will be informed by letter either that the proposed supervision arrangement has been approved or that it has been rejected. Any rejection letter will outline, with as much specificity as practicable, the reasons for rejection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 19:
§705. Renewal

A. A licensed professional vocational rehabilitation counselor shall renew his license by paying the renewal fee every year prior to August 1st, and by meeting the requirement that 30 clock hours of continuing education be obtained during a two-year period in an area of professional rehabilitation counseling as approved by CRC, NCC, or by the board. The chairman shall issue a document renewing the license for a term of one year. Beginning August 1, 1994, all LRCs will begin a new two year period for clock hours. Anyone licensed during the year out of sync with the LRC Board fiscal year will be required to acquire a pro rata share of hours as determined by the board for their first two year period. All LRCs will be required to renew every year with their training hours acquired over a two year

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: License and Practice, License Renewal,
Reciprocity

period. Renewal must be completed within 60 days of the August 1 deadline for each renewal year. If the renewal is not submitted within that time frame, the license shall lapse, and the applicant must meet all existing licensure requirements to become an LRC.

B. A licensed professional vocational rehabilitation counselor may request retirement status if he is not going to engage in private practice for the next year or longer. Under retirement status the counselor would not be required to submit continuing education credits. If a retiree wishes to reactivate, he would need to do the following:

1. notify board;
2. complete application for reactivation;
3. pay existing renewal fee;
4. begin documentation of continuing education hours.

C. A retiree cannot practice with a retirement status license. If the retiree holds a retirement status license for longer than five years and requests reactivation, he must pass the exam or show qualified continuing education hours for the previous two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 19: §707. Reciprocity

The LRC Board of Examiners will license anyone who furnishes evidence that they have been licensed by another state in vocational rehabilitation counseling, not the generic licensed professional counseling. The board of examiners will make the determination based on evidence from another state's law and from the counselor's application, thus allowing said applicant to become licensed based on proof of good standing from reciprocating state's Vocational Rehabilitation Counselors Board of Examiners, having filed an application, paid existing established fees and without sitting for the exam if there is proof that the applicant sat for the reciprocating state's exam or waiver of said exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 19:

Comments on this proposed rule may be submitted to: Larry S. Stokes, chairman, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, Box 41594, Baton Rouge, LA 70835-1594.

A public hearing on this proposed rule will be held on Thursday, October 21, 1993, from 2:30 p.m. - 4:30 p.m. in the Combined Barataria Salon of the Airport Hilton in Kenner, Louisiana. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Larry S. Stokes
Chairman

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The board operates at no cost to the state, by collecting fees from granting licenses to qualified vocational rehabilitation counselors.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no change in revenue collections due to these rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is estimated there will be no change in costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No new effect on competition or employment.

Larry S. Stokes
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Death Certificate Preparation (LAC 48:V.12307)

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health intends to adopt the following proposed rule pursuant to R.S. 49:950 et seq. to amend instructions for preparing a Louisiana Certificate of Death by supplanting LAC 48:V.12307 in its entirety with the following. Promulgation of the rule is authorized by R.S. 40:33C.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 123. Preparation of Certificates

§12307. Preparation of Certificate of Death (PHS 16)

A. Section—Personal Data of Deceased

1. Last Name of Decedent (Item 1A). Enter the legal surname of the deceased. If unknown, enter "Unknown." Generation identifications, e.g., Jr., II, III, etc., shall appear immediately following and as a part of the surname. The surname of a married woman may be either her maiden name or that of her husband. Alias or "also known as" names should be entered immediately below the legal name in parenthesis (for example, AKA-Smith).

2. First Name (Item 1B). Enter the first name of the deceased. If unknown, enter "Unknown." Alias or "also

known as" names should be entered immediately below the legal name in parenthesis (for example, AKA-John).

3. Middle Name (Item 1C). Enter the second name of the deceased. If unknown, enter "Unknown." Alias or "also known as" names should be entered immediately below the legal name in parenthesis (for example, AKA-George). If there is no middle name, enter "none."

4.a. Date of Death (Item 2A). Enter the month, day and year using the following abbreviations: Jan., Feb., Mar., Apr., Aug., Sept., Oct., Nov., and Dec. Enter the complete spelling for the months of May, June and July.

b. Consider a death at midnight to have occurred at the end of one day rather than the beginning of the next. For instance, the date for a death that occurs at midnight on December 31 should be recorded as December 31.

c. If the exact date of death is unknown, it should be estimated by the person completing the medical certification. "Est." should be placed before the date.

5. Hour of Death (Item 2B). Enter the hour of death indicating a.m. or p.m. If the institution operates on 24-hour or military time, the hour of death may be so expressed. If the exact hour of death is unknown, it should be estimated by the person completing the medical certification. "Est." should be placed before the hour.

6. Sex (Item 3). Enter male or female. Do not abbreviate or use other symbols. If sex cannot be determined after verification with medical records, inspection of the body or other sources, enter "unknown." Do not leave this item blank.

7. Race (Item 4)

a. Enter the race of the decedent as stated by the informant.

b. For Asians and Pacific Islanders, enter the national origin of the decedent, such as Chinese, Japanese, Korean, Filipino, or Hawaiian.

c. If the informant indicates that the decedent was of mixed race, enter both races or ancestries. Generic designations of Oriental, Polynesian, European, etc., are not acceptable.

8. Marital Status (Item 5). Enter married, never married, widowed or divorced. "Single" is not an acceptable entry.

9. Surviving Spouse (Item 6). If the decedent was legally married at death, enter the name (maiden name in the case of a widow) of the survivor. If the deceased was single at death, enter "None."

10. Date of Birth (Item 7). Enter the exact month, day, and year that the decedent was born. Enter the date using the following abbreviations: Jan., Feb., Mar., Apr., Aug., Sept., Oct., Nov., and Dec. Enter the complete spelling for the months of May, June and July. If the birth date is an estimation, enter the birth date as "est." then the date. If the birth date is unknown, enter "Unknown."

11. Age in Years (Item 8A). Enter the decedent's exact age in years at his or her last birthday. If the decedent was under one year of age, leave blank.

12. Under One Year (Item 8B)

a. Enter the exact age in either months or days at time of death for infants surviving at least one month.

b. If the infant was 1-11 months of age inclusive, enter the age in completed months.

c. If the infant was less than one month old, enter the age in completed days.

d. If the infant was over one year or under one day of age, leave blank.

13. Under One Day (Item 8C)

a. Enter the exact number of hours and/or minutes the infant lived for infants who did not survive an entire day.

b. If the infant lived 1-23 hours inclusive, enter the age in completed hours.

c. If the infant was less than one hour old, enter the age in minutes.

14. Birthplace (Item 9)

a. If the decedent was born in the United States, enter the name of the city or location and state.

b. If the decedent was not born in the United States, enter the name of the location and country of birth whether or not the decedent was a U.S. citizen at the time of death.

c. If the decedent was born in the United States but the city or location is unknown, enter the name of the state only. If the state is unknown, enter "U.S.—unknown."

d. If the decedent was born in a foreign country but the city or location is unknown, enter the name of the country.

e. If the decedent was born in a foreign country but the country is unknown, enter "Foreign-unknown."

f. If no information is available regarding place of birth, enter "Unknown."

15. Usual Occupation (Item 10)

a. Enter the usual occupation of the decedent. This is not necessarily the last occupation of the decedent. "Usual occupation" is the kind of work the decedent did during most of his or her working life, such as claim adjuster, farmhand, coal miner, janitor, store manager, college professor, or civil engineer. Never enter "retired."

b. If the decedent was a homemaker at the time of death but had worked outside the household during his or her working life, enter that occupation. If the decedent was a "homemaker" during most of his or her working life, and never worked outside the household, enter "homemaker."

c. Enter "student" if the decedent was a student at the time of death and was never regularly employed or employed full time during his or her working life. If none of the above are applicable, enter "not applicable" or "NA."

16. Kind of Business/Industry (Item 11)

a. Enter the kind of business or industry to which the occupation listed in Item 10 is related, such as insurance, farming, coal mining, hardware store, retail clothing, university, or government. Do not enter firm or organization names.

b. If the decedent was a homemaker during his or her working life, and "homemaker" is entered as the decedent's usual occupation in Item 10, enter "own home" or "someone else's home," whichever is appropriate.

c. If the decedent was a student at the time of death and "student" is entered as the decedent's usual occupation in item 10, enter the type of school, such as high school or college, in item 11. If none of the above are applicable, enter "not applicable" or "NA."

17. Of Hispanic Origin? (Item 12)

a. Check "No" or "Yes." If "yes" is checked, enter the specific Hispanic group. Item 12 should be checked on all certificates. Do not leave this item blank. The entry in this item should reflect the response of the informant.

b. For the purposes of this item, "Hispanic" refers to people whose origins are from Spain, Mexico, or the Spanish-speaking countries of Central or South America. Origin can be viewed as the ancestry, nationality, lineage, or country in which the person or his or her ancestors were born before their arrival in the United States.

c. There is no set rule as to how many generations are to be taken into account in determining Hispanic origin. A person's Hispanic origin may be reported based on the country of origin of a parent, a grandparent, or some far-removed ancestor. The response should reflect what the decedent considered himself or herself to be and should not be based on percentages of ancestry.

d. If the decedent was a child, the parent(s) should determine the Hispanic origin based on their own origin. Although the prompts include the major Hispanic groups of Cuban, Mexican, and Puerto Rican, other Hispanic groups may also be identified in the space provided.

e. If the informant reports that the decedent was of multiple Hispanic origin, enter the origins as reported (for example, Mexican-Puerto Rican).

f. If an informant identifies the decedent as Mexican-American or Cuban-American, enter the Hispanic origin as stated.

g. This item is not a part of the race item. A decedent of Hispanic origin may be of any race. Each question, race and Hispanic origin, should be asked independently.

18. Ever in U.S. Armed Forces (Item 13). Enter yes or no in the blank.

19. Social Security Number (Item 14). Enter the Social Security Number of the decedent. If it is unknown, enter "unknown."

20. Decedent's Education (Item 15)

a. Elementary/Secondary (0-12)—College (1-4 or 5+)

b. Enter the highest number of years of regular schooling completed by the decedent in either the space for elementary/secondary school or the space for college. An entry should be made in only one of the spaces. The other space should be left blank. Report only those years of school that were completed. A person who enrolls in college but does not complete one full year should not be identified with any college education in this item.

c. Count formal schooling. Do not include beauty, barber, trade, business, technical, or other special schools when determining the highest grade completed.

B. Section—Place of Death

1. Place of Death (Item 16A). Check appropriate box.

2. Name of Facility (Item 16B).

a. Hospital or Facility Deaths

i. If the death occurred in a hospital or other facility, enter the full name of the hospital or facility.

ii. If death occurred en route to or on arrival at a hospital, enter the full name of the hospital. Deaths that occur

in an ambulance or emergency vehicle en route to a hospital are in this category.

b. Non-hospital or Non-facility Deaths

i. If the death occurred at home, enter the house number and street name.

ii. If the death occurred at some place other than those described above, enter the number and street name of the place.

iii. If the death occurred on a moving conveyance, enter the name of the vessel, for example, "S.S. Emerald Seas (at sea)" or "Eastern Airlines Flight 296 (in flight)."

3. Place of Death in City Limits? (Item 16C). Enter "yes" or "no" as appropriate.

4. City, Town or Location of Death (Item 17A)

a. Enter the full name of the city, town, village or location where death occurred regardless of size.

b. If the death occurred on a moving conveyance and the body was first removed from the conveyance in this state, complete a death certificate and enter as the place of death the address where the body was first removed from the conveyance but also enter in parentheses the *actual* place of death insofar as it can be determined.

5. Parish of Death (17B). Enter the name of the parish in full. If the death occurred on a moving conveyance, enter the name of the parish where the decedent was first removed from the moving conveyance.

C. Section—Residence

1. Street Address (Item 18A). Enter the number and the street name of the place where the decedent lived. If the place has no number and street name, enter the rural route number or box number.

2. Parish of Residence (Item 18B). Enter the name of the parish/county in which the decedent lived.

3. State of Residence (Item 18C). Enter the name of the state of residence. This may be different than the state in the mailing address. If the decedent was not a resident of the United States, enter the name of the country and the name of the unit of government that is the nearest equivalent of a state.

4. Usual Residence of Decedent (Item 18D). Enter the full name of the city, town or location in which the decedent lived. This may differ from the city, town or location in the mailing address.

5. Zip Code (Item 18E). Enter the zip code of the place where the decedent lived. This may differ from the zip code used in the mailing address.

6. Residence Inside City Limits (Item 18F). Enter "yes" or "no" as appropriate.

D. Section—Parents

1. Father's Last Name, First, Middle (Item 19A). The name of the father shall refer to the husband of the mother of the deceased, unless the biological father had formally acknowledged or legitimated the deceased prior to his/her death. Enter the last, first and middle name of the father. If the father had no middle name, enter "none." If not known, enter "unknown."

2. Father's Place of Birth (Item 19B). Enter the name of the city or location where the father was born. If unknown, enter "unknown."

3. Father's Place of Birth—State (Item 19C). Enter the

name of the state where the father was born. If born outside of the United States, enter the name of the country. If not known, enter "unknown."

4. Mother's Maiden Name, First, Middle (Item 20A). The maiden surname of the mother is the name given at birth or adoption, not a name acquired by marriage. If the name is not known, enter "unknown." If there is no middle name, enter "none." If the middle name is unknown, enter "unknown."

5. Mother's Place of Birth (Item 20B). Enter the name of the city or location where the mother was born. If unknown, enter "unknown."

6. Mother's Place of Birth—State (Item 20C). Enter the name of the state where the mother was born. If born outside of the United States, enter the name of the country. If not known, enter "unknown."

E. Section—Informant

1. Informant's Name (Item 21A)

a. Type or print the name of the person who supplied the personal facts about the decedent and his or her family.

b. In the event that the information is taken from the institutional records, the entry shall indicate "name of institution" records and the name of the person extracting the information.

2. Informant's Address (Item 21B). Enter the complete mailing address of the informant whose name appears in item 21A. Be sure to include the zip code.

3. Date (Item 21C). Enter the date that the informant provided the information.

F. Section—Disposition. This section is to be completed by the funeral director or a person authorized to act in behalf of the funeral director.

1. Method of Disposition (Item 22A)

a. Check the appropriate block. If "other" is checked, specify method of disposition.

b. If the decedent was removed from the state and the cemetery or crematorium name and location are known, check burial or cremation and enter appropriate name and location in 22C. If decedent was removed from this state and the name and location of the crematorium or cemetery are unknown, check "removal."

2. Date Thereof (Item 22B). Enter the date in the specified format.

3. Name and Location of Cemetery or Crematorium (Item 22C). Enter the official name, address or location, including city or location and state of the cemetery or crematorium where final disposition is to be made.

4. Signature and Address of Funeral Director (Item 23A). The funeral director or person authorized to act in behalf of the funeral director, or other person managing the body shall sign in black, permanent ink and include the establishment name and the business address.

5. Facility Number (Item 23B). Enter the facility license number.

6. License Number (Item 23C). Enter the license number of the funeral director or funeral director/embalmer who signed the death certificate.

G. Section—Registrar

1. Alterations (Item 24). Enter annotations to document

the reason for an alteration which occur after a death certificate is filed with either the local registrar or in the State Registry. The annotations should indicate the evidentiary basis for alteration, the date of the alteration and the signature of the official who altered the certificate.

2. Burial Transit Permit (Item 25A). The number of the Burial Transit Permit is entered here by the local registrar or special agent issuing it at the time of issuance. Note that permits are only issued upon presentation of a properly completed death certificate. However, if a funeral director presents a death certificate completed to the limits of his ability and resources and for reasons beyond his control he is unable to submit an entirely completed death certificate, a permit shall be issued. The permit is issued with the provision and understanding that the funeral director will present a completed document as soon as humanly possible. In the event that the funeral director abuses his privilege, the privilege will be withdrawn.

3. Parish of Issue (Item 25B). Enter the parish name in full where the permit was issued.

4. Date of Issue (25C). Enter the date that the Burial Transit Permit was issued.

5. Signature of Local Registrar (Item 26). Enter the signature of the local registrar of the parish where the certificate is filed. The signature shall be in permanent black ink.

H. Section—Manner of Death

1. Manner of Death (Item 27)

a. Complete this item for all deaths. Check the box corresponding to the manner of death. Deaths not due to external causes should be identified as "Natural." Usually, these are the only types of deaths a physician will certify. "Pending investigation" and "Could not be determined" refer to coroner cases only.

b. If the manner of death checked in item 27 is anything other than natural, items 28 a-f must be completed.

2. Date of Injury (Item 28A)

a. Enter the exact month, day, and year that the injury occurred. Enter the full name of the month, a standard abbreviation or a numeric value. If the exact date is not known, enter an estimated date (enter "est." before the date).

b. The date of injury may not necessarily be the same as the date of death.

3. Time of Injury (Item 28B)

a. Enter the time of injury (hours and minutes) according to local time. If daylight saving time is the official prevailing time where death occurs, it should be used to record the time of death. Be sure to indicate whether the time of death is a.m. or p.m.

b. Enter 12 noon as "12 noon." One minute after 12 noon is entered as "12:01 p.m."

c. Enter 12 midnight as "12 mid." A death that occurs at 12 midnight belongs to the night of the previous day, not the start of the new day. One minute after 12 midnight is entered as "12:01 a.m." of the new day.

d. If the exact time of death is unknown, the time should be estimated by the person who pronounces the body dead. "Est." should be placed before the time.

4. Injury at Work (Item 28C). Enter yes or no.

5. Describe How Injury Occurred (Item 28D). Enter a brief description of how the injury occurred. As examples: "shot in robbery," "fall from catwalk," "electrocuted installing wiring," "crushed by falling beam," etc.

6. Place of Injury (Item 28E). Specify where the injury occurred.

7. Location (Item 28F). Enter the complete address where the injury took place.

I. Section—Certifier. This section is to be completed only by the physician or coroner.

1. Certification of Attendant (Item 29A)

a. Enter dates of medical attendance of deceased if appropriate.

b. In accordance with R.S. 40:49B(5), if the death occurred more than 10 days after the decedent was last treated by a physician, the case shall be referred to the coroner for investigation to determine and certify the cause of death.

2. Signature of Physician or Coroner (Item 29B)

a. The person legally responsible shall sign in the space in permanent black ink indicating professional status, i.e., M.D. or coroner. The physician or coroner shall limit his signature to the space provided. *Note:* This section shall only be completed by the attending physician or coroner (including assistants) certifying death. No one else may sign for him and facsimiles or stamps shall not be acceptable.

b. If accident, suicide or homicide is checked, the signature shall be that of the coroner or his assistant in the parish where death due to external violence occurred.

3. Date (Item 29C). Enter the date that the certification statement was completed.

4. Type or Print Name of Physician or Coroner (Item 29D). The name of the physician or coroner certifying the death shall be typed (or printed) in permanent black ink.

5. Address of Physician or Coroner (Item 29E). Enter the street address, city and state of the attending physician or coroner.

J. Section—Cause of Death

1. Cause of Death (Item 30 Part I). Enter the diseases, injuries or complications that caused the death. Do not enter the mode of dying such as cardiac or respiratory arrest. Enter only one cause on each line followed by the approximate interval between onset and death.

2. Other Significant Conditions (Item 30 Part II). All other important diseases or conditions that were present at the time of death and that may have contributed to the death but did not lead to the underlying cause of death listed in Part I should be recorded.

3. If Deceased was Female 10-49, was She Pregnant in the Last 90 Days? (Item 31). Check yes, no or unknown, or leave blank if not applicable.

4. Was an Autopsy Performed (Item 32A). Enter yes or no. Enter "yes" if a partial or complete autopsy was performed.

5. Were Autopsy Findings Available Prior to the Completion of Cause of Death (Item 32B). Enter yes or no. Enter "yes" if the autopsy findings were available prior to the completion of the cause of death. If an autopsy was conducted but the findings were not available and used to

determine the cause of death, enter "no." If no autopsy was conducted, enter "no" or leave blank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:32 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April, 1987), repromulgated by the Department of Health and Hospitals, Office of Public Health, LR 16:307, amended LR 19:

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than October 30, 1993 at 4:30 p.m. to William H. Barlow, Director and State Registrar, Division of Vital Records, Office of Public Health, Box 60630, New Orleans, LA 70106.

Rose Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Preparation of Certificate of Death

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to state government to implement the proposed rule is \$874.58, the cost of printing a revised version of the Louisiana Funeral Director's Handbook on Death Registration. There is no projected savings for state government. There is no projected impact on local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule will have no economic impact on affected persons and non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The measure will have no impact on competition and employment.

Rose Forrest
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Identification of Congenital Syphilis in Newborns

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health intends to adopt a rule pursuant to R.S. 49:950

et seq. to implement and test a new method for identifying congenital syphilis. This rule will implement a new program for the identification of Congenital Syphilis in newborns.

Screening will be done like other newborn screening measures by means of a heelstick on newborns and will utilize a new test to detect syphilis at birth.

The proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations no later than October 30, 1993 at 4:30 p.m. to John F. Beltrami, M.D., phone (504) 568-5510 or Thomas A. Farley, M.D., phone (504) 568-5005 at the Office of Public Health, Box 60630, New Orleans, LA 70106.

Rose Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Identification of Congenital Syphilis in
Newborns**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Early identification and treatment of newborns with congenital syphilis is currently being done by Sexually Transmitted Disease Control Program of the Office of Public Health. A new syphilis test for newborns will be piloted in Northwest Louisiana under contract and at the request of the Centers for Disease Control and Prevention (CDC). If the test proves to be more accurate than the test currently being used, savings to the state in long term health care costs may result.

The pilot will cost \$50,000 and will be funded by the CDC.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be \$50,000 in federal funds collected to fund this one year program.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Economic benefits to the parents and to the newborns are great when newborns with Congenital Syphilis are identified at birth because this may prevent lifelong morbidity.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

None is anticipated.

Rose Forrest
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Inpatient Psychiatric Services-Distinct Part
Psychiatric Units**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt a rule in the Medical Assistance Program in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This rule is promulgated to comply with Subpart B - Hospital Services Subject to and Excluded from the Prospective Payment Systems for Inpatient Operating Costs and Inpatient Capital - Related Costs of Title 42 Code of Federal Regulations Chapter IV (10-1-92 Edition) and Section 1861(F) of the Social Security Act (42 U.S.C. Section 1395x(F)) and to avoid federal sanctions or penalties.

The prospective reimbursement methodology implemented in 1989 under the Louisiana Medicaid State Plan for inpatient psychiatric services requires that these distinct part units in acute general hospitals must meet Medicare Prospective Payment System (PPS) exempt criteria. The intent at that time was to improve access to such services for the Medicaid beneficiaries and application of this Medicare criteria focused on the quality of care requirements. The Medicaid standards for participation for providers do include eligibility for Medicare certification but do not require certification by Medicare as a distinct part psychiatric unit.

The Health Care Financing Administration has recently advised that the Medicaid certification practices for distinct part psychiatric units are not in compliance with the Medicare certification requirements. The Health Care Financing Administration has advised the Bureau of Health Services Financing that corrective action should be taken to assure that distinct part psychiatric units recognized by Medicaid also be certified by Medicare. This serves to assure that services of comparable quality are provided to both Medicaid and Medicare beneficiaries. Requirements that hospitals providing psychiatric services meet the minimum criteria for recognition as a distinct part psychiatric unit under Medicare will ensure that Medicare and dual Medicare and Medicaid beneficiaries are not deprived of the freedom of choice in such providers. Federal regulations governing such certification were promulgated on March 29, 1993 in Volume 50 of the *Federal Register*, page 12741, and amended on August 30, 1991 (Volume 56, page 43420) and on September 1, 1992 (Volume 57, page 39821). An emergency rule was adopted on August 30, 1993 on Medicaid reimbursement requirements governing distinct part psychiatric units, which is published in this September, 1993 issue of the *Louisiana Register*. The bureau is now repealing that emergency rule by the adoption of a subsequent emergency rule, also published in this September, 1993 *Louisiana Register*. The August 30, 1993 emergency rule continues in force until the effective date of the subsequent emergency rule and the provisions of that emergency rule are incorporated in the proposed rule, the text

of which can be viewed in its entirety in the Emergency Rule Section of this September, 1993 *Louisiana Register*.

Disapproval of this change by HCFA will automatically cancel the provisions of this proposed rule and the current policy will remain in effect.

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 responding to inquiries and providing information on this proposed rule. A public hearing on this proposed rule will be held on Monday, October 25, 1993 in the Department of Transportation and Development, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing. Copies of this notice and all other Medicaid rules and regulations are available at Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Psychiatric Services

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to decrease state expenditures by \$13,676 in SFY 1993-94, \$3,468,159 in SFY 1994-95 and \$5,400,019 in SFY 1995-96.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will result in a decrease in federal revenue collections by \$38,030 in SFY 1993-94, \$9,088,535 in SFY 1994-95 and \$14,151,101 in SFY 1995-96.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Hospitals providing psychiatric inpatient services not in a distinct part psychiatric unit will need to comply with these requirements for Medicaid reimbursement. An average decrease of \$326.30 in per diem rates paid for these services will affect approximately 114 hospitals with annual decreases ranging from \$104 to \$3,272,834.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule is projected to have no significant effect on competition and employment.

Thomas D. Collins
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Nurse Aide Registry

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medical Assistance Program in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department promulgated a rule on August 20, 1991 in the *Louisiana Register*, Volume 17, Number 8 on the Nurse Aide Training and the Competency Evaluation Program. Included in this rule was the provision to establish the Nurse Aide Registry to maintain certain information on nurse aides. In addition, this rule provides for the Registry to maintain documentation of any findings on investigations of abuse, neglect, and misappropriation of residents' property by nurse aides.

On June 20, 1993 the Department of Health and Hospitals adopted a rule to incorporate into the records of the Nurse Aide Registry allegations of, or pending action concerning abuse, neglect or misappropriation of property of nursing facility residents by nursing aides. In addition, the rule stated that nursing aides would be decertified if convicted of such acts. This rule was published in the *Louisiana Register*, Volume 19, Number 6, page 753. The department now finds it necessary to repeal this June 20, 1993 rule in its entirety. The provisions of the August 20, 1991 rule will continue to govern the Nurse Aide Registry and the Nurse Aide Training and Competency Evaluation Program.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals the rule on Nurse Aide Decertification in its entirety. This rule was published in the June 20, 1993 *Louisiana Register*, Volume 19, Number 6, page 752.

Interested persons may submit written comments to the following address: Thomas D. Collins, Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to this proposed rule. A public hearing on this proposed rule will be held on Monday, October 25, 1993 in the Department of Transportation and Development auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments orally or in writing at the public hearing.

Copies of this notice and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nurse Aide Registry**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
Implementation of this rule is projected to increase state expenditures by \$150 in SFY 1993-94, but no expenditures are expected for SFY 1994-95 and 1995-96.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
Implementation of this rule will result in increased federal revenue collections in SFY 1993-94 by \$75 but no increases are expected for SFY 1994-95 and 1995-96.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**
There may be some greater exposure for nursing home residents to possible abuse or neglect and nursing aides may have greater flexibility in securing employment in these facilities as a result of this proposed rule.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
This proposed rule will have no known impact on competition and employment.

Thomas D. Collins
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Pharmacy Lock-In Program

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

The Pharmacy Lock-In Program has been in existence since the first rule was published in 1979. The term "lock-in" refers to the mechanism which assigns Medicaid beneficiaries to a system which restricts their utilization of physician and pharmacy services to a specified provider(s) of such services. The lock-in mechanism ensures against misuse of Title XIX benefits by beneficiaries and/or providers and serves as an educational device in instructing the beneficiaries in the most efficient method to use Medicaid services to ensure maximum benefit to their health.

This notice of intent is a policy revision required as result of the changes in the pharmacy program due to Omnibus Budget Reconciliation Act 1990. This notice outlines the basic Pharmacy Lock-in Program and will supersede the current rule. These new procedures regarding lock-in will be published in the Pharmacy Provider Manual after adoption of this proposed rule.

PROPOSED RULE

The Bureau of Health Services Financing may place any Medicaid beneficiary who has shown a consistent pattern of misuse of program benefits into the lock-in mechanism. Misuse may take the form of obtaining prescriptions under the pharmacy program from various physicians and/or pharmacists without these providers' knowledge that the beneficiary is receiving these drugs in an uncontrolled and unsound way.

Placement of Beneficiaries in the Lock-In Program

Potential lock-in beneficiaries will be identified through review of various reports generated by the Medicaid Management Information System or by referral from other interested parties to the Fiscal Intermediary for data analysis. Professional medical personnel affiliated with the Fiscal Intermediary and/or Department of Health and Hospitals examine data for a consistent pattern of misuse of program benefits by a beneficiary. Contact with involved providers may be initiated for additional information. The MMIS beneficiary profile may be shared with providers. Professional medical personnel associated with the Fiscal Intermediary and/or Department of Health and Hospitals may render a decision to place a beneficiary in the Pharmacy Lock-In Program. The decision is submitted, along with any provisions regarding providers, to a Department of Health and Hospitals designee for approval. The decision making authority rests solely with the Department of Health and Hospitals, Bureau of Health Services Financing.

Lock-In Procedures

The Bureau of Health Services Financing advises the Fiscal Intermediary of the decision to place a beneficiary in the Pharmacy Lock-In Program. The Fiscal Intermediary staff shall forward a notification to the local Medicaid office of the decision to place the beneficiary in the program and to initiate the necessary steps.

Beneficiary Notification

A. The local Medicaid office shall initiate the letter providing the beneficiary timely notice of the decision to lock-in providers and shall include the following additional information:

1. the bureau's intention to allow the beneficiary to choose one primary care provider and one pharmacy provider and a specialist provider;
2. that the Medical Assistance Program will make payments only to the physician and pharmacy providers chosen by the beneficiary and subsequently assigned by the bureau;
3. that a new eligibility card will be issue containing a special indicator identifying the beneficiary's lock-in status;
4. that the beneficiary is advised to contact his local Medicaid office for an appointment to discuss the Pharmacy Lock-In Program; and
5. that the beneficiary has the right to appeal the decision.

B. The local Medicaid office shall be responsible for the following:

1. initiate contact with the beneficiary in instances when the beneficiary fails to seek contact;
2. conduct a face-to-face interview with the beneficiary

regarding the lock-in program and the beneficiary's rights and responsibilities;

3. assist the beneficiary, if necessary, in exercising due process rights; and complete Form 9-LI(2) at the initial contact and at each subsequent contact(s) when a beneficiary's choice of providers changes; and

4. notify the Fiscal Intermediary when beneficiaries refuse to choose providers.

C. The Fiscal Intermediary shall be responsible for the following:

1. ensure that production of regular eligibility card is suppressed upon receipt of Forms 9-LI(2) and 19LI;

2. verify to the local Medicaid office that the beneficiary has been locked in;

3. notify the local Medicaid office of confirmation or denial of providers;

4. notify the local Medicaid office of the effective month of lock-in;

5. ensure suppression of the regular eligibility card when the beneficiary refuses to choose providers and has not appealed the lock-in decision within 30 days of notification; and

6. initiate form to lock-in providers on the MMIS file;

7. notify lock-in providers of their selection.

The lock-in card with the special indicator may be issued either by the local eligibility office or the Fiscal Intermediary.

Restrictions

Beneficiaries shall be prohibited from choosing physicians and pharmacists who overprescribe or oversupply drugs. When the agency cannot approve a beneficiary's choice of provider(s), the lock-in beneficiary shall be required to make another selection.

Appeals

The beneficiary has the right to appeal the lock-in decision within 30 days of mailing the notice of action. If the receipt requests a hearing before the date of action, the decision to lock-in is stayed pending the appeal hearing. The beneficiary also has a right to an informal discussion. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing staff will conduct the informal telephone discussion in conjunction with local Medicaid office staff when requested. An explanation of the reason for recommending lock-in will be made to the beneficiary. If after the informal discussion the decision is reaffirmed to proceed with lock-in, the beneficiary will be given 30 days from the informal discussion notice of decision to file an appeal. In instances when a beneficiary delays or postpones an appeal without prior notice, lock-in will be implemented.

General Provisions

A. Beneficiaries may change lock-in providers every year without cause. With good cause, they may change lock-in providers only with bureau's approval. Beneficiaries may change providers for the following "good cause" reasons: a beneficiary relocates, a beneficiary's primary diagnosis changes, requiring a different specialist, the lock-in provider(s) request(s) that the recipient be transferred, or the lock-in provider(s) stop(s) participating in the Medical Assistance Program. The beneficiary may still receive other program

services available through Medicaid such as hospital, transportation, etc. which are not controlled or restricted by placing a beneficiary in lock-in for pharmacy and physicians services. No beneficiary on lock-in status shall be denied the service of a physician or pharmacist on an emergency basis within program regulations. The Medicaid eligibility card states that an enrolled provider will be reimbursed for such services. In instances in which a beneficiary is referred by his lock-in physician to another physician provider, reimbursement shall be made to the physician provider to whom the beneficiary was referred within program regulations.

B. Beneficiary profiles are to be reviewed periodically as described in the Lock-In Procedure Manual (for determination of continuance or discontinuance of LI). Professional Medical staff associated with the Fiscal Intermediary or Department of Health and Hospitals examine a recipient's profile for a continued pattern of misuse of program benefits. Periods of ineligibility for Medicaid will not affect the lock-in status of the individual. The local eligibility office will notify the Bureau of Health Services Financing upon reapplication and the recipient will be placed on a locked-in status. A review at the end of the first four months will be made to determine if lock-in should be continued. Based upon a recommendation of appropriate medical professional staff, a decision may be presented to Department of Health and Hospitals to restore unrestricted benefits and appropriate notification will be made to the beneficiary and the local eligibility office.

Interested persons may submit written comments to the following address: Thomas D. Collins, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule will be held on Monday, October 25, 1993 in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments orally or in writing at the public hearing.

Copies of this notice and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pharmacy Lock-In Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to increase state expenditures by \$150 in SFY 1993-94, but no expenditures are expected for SFY 1994-95 and 1995-96
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will result in increased revenue collections in SFY 1993-94 by \$75 but no increases are expected for SFY 1994-95 and 1995-96.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition and employment.

Thomas D. Collins
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Medical Disclosure Panel**

Informed Consent (LAC 48:I.Chapter 23)

As authorized by R.S. 40:1299.40E, as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991 and Act 633 of 1993, the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, is proposing to adopt rules which require which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing any such treatment or procedure. This amends rules adopted in *Louisiana Register* Vol. 18, No. 12, p. 1391-1399.

Interested persons may submit written comments by October 27, 1993, to Donald J. Palmisano, Jr., Chairman, Louisiana Medical Disclosure Panel, Department of Health and Hospitals, Box 1349, Baton Rouge, LA 70821-1349. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 2 p.m., October 27, 1993, in the First Floor Auditorium, Department of Transportation and Development Building, 1201 Capitol Access Road, Baton Rouge, LA 70802. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Informed Consent (LAC 48:I.Chapter 23)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs anticipated from the adoption of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition and employment from implementation of these rules.

Rose V. Forrest
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

Regulation 45 - Filing of Affirmative Action Plans

Under the authority of R.S.22:3 and R.S. 49:950 et seq., the Commissioner of Insurance hereby gives notice of his intent to adopt the following proposed regulation, effective October 20, 1993. The regulation will establish guidelines for filing affirmative action plans with the Commissioner of Insurance.

PROPOSED REGULATION 45

Section 1. Authority

This regulation is promulgated under the authority of Title 22:1923 A.(1) of the Insurance Code of the State of Louisiana and the Administrative Procedure Act, R.S. 49:950 et seq.

Section 2. Purpose

The purpose of this regulation is to implement R.S. 22:1923 A.(1), which requires an insurer to file an affirmative action plan upon the violation of a cease and desist order issued by the commissioner after hearing.

Section 3. Applicability and Scope

This regulation applies to any insurer that is called for hearing before the commissioner for violating Part X of the Insurance Code (Equal Opportunity In Insurance) and found to be in violation of a Cease and Desist Order issued in accordance with the provisions of R.S. 22:1923 A. It sets forth the minimum content and procedures for the filing of an affirmative action plan by an insurer who violates Part X of the Insurance Code, and who then violates a cease and desist order issued by the commissioner after hearing.

Section 4. Content and Procedure

A. The commissioner shall notify an insurer of its violation of a cease and desist order issued pursuant to Part X of the Insurance Code by Certified U.S. Mail, return receipt requested. Said notification shall also direct the insurer to file an affirmative action plan.

B. The notice shall require the insurer to file its plan within 20 days of receipt of the notice.

C. The insurer shall file its plan by means of the U.S. Mail, and it shall contain the minimum requirements stated in R.S. 22:1923 C.(4)(a) and (b).

D. The insurer shall address the plan to the attention of the Office of Minority Affairs.

Section 5. Effective Date

This regulation shall become effective upon final promulgation in the *Louisiana Register*.

Written comments may be submitted on the proposed regulation until 4:30 p.m., Friday, August 20, 1993 to John B. Fontenot, Staff Attorney, Box 94214, Baton Rouge, LA 70804-9214.

James H. "Jim" Brown
Commissioner of Insurance

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 45

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the Department of Insurance or any other state or governmental agency will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department that would require funding for additional personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is not anticipated that this regulation will impose any additional costs on those companies which market medicare supplement insurance policies in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this regulation should not have any effect on competition and employment.

Brenda St.Romain
Assistant Commissioner
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Labor
Office of Labor

Job Training Partnership Act (LAC 40:XIII.Chapter 1)

Under the authority of R.S. 23:1 and R.S. 23:2022, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Labor, Office of Labor, intends to amend and adopt rules relative to the Job Training Partnership Act, LAC 40:XII.Chapter 1.

The Federal Job Training Partnership Act has been revised and amended by P.L. 102-367 effective July 1, 1993. The state JTPA rules, amended through a Declaration of Emergency, July 1, 1993 and published on pages 861-873 of the July 20, 1993 *Louisiana Register*, must be amended through the rulemaking process, including final rule promulgation as prescribed by R.S. 49:950 et. seq.

TITLE 40

LABOR AND EMPLOYMENT

PART XIII. Job Training Partnership Act

Chapter 1. General Provisions

§101. Definitions

Capital Improvement—any modification, addition, restoration, or other improvement:

1. which increases the usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment;

2. which is classified for accounting purposes as a "fixed asset"; and

3. the cost of which increases the recorded value of the existing building, structure, or major item of equipment and is subject to depreciation.

Construction—the erection, installation, assembly, or painting of a new structure or a major addition, expansion, or extension of an existing structure, and the related site preparation, excavation, filling and landscaping, or other land improvement.

Consulting Service—work, other than professional, personal, or social service, rendered by either individuals or firms who possess specialized knowledge, experience, or expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, data processing, and advertising contracts, except for printing associated therewith.

Dependent—any person for whom, both currently and during the previous 12 months, the applicant has assumed 50 percent of his support, and is:

1. a member of the immediate household (parent, spouse, or child); or

2. not a member of the household, but a parent, child or spouse of the applicant, who is unemployed because of a mental or physical disability; or

3. one who may be claimed as a dependent on the applicant's tax return.

Employing Agency—any public or private employer which employs participants and which establishes and maintains the personnel standards applicable to those participants covering such areas as wage rates, fringe benefits, job titles, and employment status.

Entry Level—the lowest position in any promotional line, as defined locally by collective bargaining agreements, past practice, or applicable personnel rules.

Family as defined by Section 4(34) of the Act means:

1. two or more persons living in a single residence, as defined in §626.5 of the regulations, related by blood, marriage, or decree of court and are included in one or more

of the following categories. A stepchild or a stepparent is considered to be related by marriage.

- a. husband, wife and dependent child;
- b. parent or guardian and dependent child;
- c. husband and wife;

2.a. for purposes of Paragraph 1 above, persons not living in the single residence but who were claimed as a dependent on another person's Federal Income Tax return for the previous year, unless otherwise demonstrated, shall be presumed to be part of the other person's family;

b. a handicapped individual may be considered an individual when applying for programs under the Act;

c. an individual 18 years of age or older, except as provided in 2.a. or 2.b. above, who receives less than 50 percent of support from the family, and who is not the principal earner nor the spouse of the principal earner, is not considered a member of the family. Such an individual is considered a family of one.

Family Income—all income received from all sources by all members of the family for the six-month period prior to application computed on an annual basis. Family size shall be the maximum number of family members during the income determination period. When computing family income, income of a spouse, parent or child shall be counted for the portion of the income determination period that the person was actually a part of the family unit of the applicant.

1. In accordance with §626.5 of the JTPA Regulations, for the purpose of determining eligibility, family income includes:

- a. money wages and salaries before any deductions;
- b. net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses);
- c. net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses);
- d. regular payments from social security, railroad retirement, strike benefits from union funds, workers' compensation, veterans' payments, and training stipends;
- e. alimony;
- f. military family allotments or other regular support from an absent family member or someone not living in the household;
- g. pensions whether private, government employee (including military retirement pay);
- h. regular insurance or annuity payments;
- i. college or university grants, fellowships, and assistantships;
- j. dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts;
- k. net gambling or lottery winnings.

2. Family income does not include:

- a. unemployment compensation;
- b. child support payments;
- c. welfare payments (including Aid to Families with Dependent Children, Supplemental Security Income, Emergency Assistance money payments, and non-federally-funded General Assistance or General Relief money payments);

d. capital gains;

e. any assets drawn down as withdrawals from a bank, the sale of property, a house, or a car;

f. tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury;

g. non-cash benefits:

- i. employer-paid fringe benefits;
- ii. food or housing received in lieu of wages;
- iii. Medicare or Medicaid;
- iv. food stamps;
- v. school meals;
- vi. housing assistance.

Job Training Plan—the plan of a service delivery area for operating programs under the Act, consisting of the Master Plan and Program Plan.

Labor Organization—a local labor organization that represents employees in the service delivery area in the same or substantially equivalent jobs as those for which recipients and subrecipients provide, or propose to provide, employment and training under the Act.

Limited English Language Proficiency—the limited ability of a participant, whose native language is not English, to communicate in English, resulting in a job handicap.

Long-Term Unemployment—any individual who is unemployed at the time of application and has been unemployed for 15 or more of the 26 weeks immediately prior to such and has limited opportunities for employment and reemployment in the same or similar occupation in the area in which such individual resides, including any older individual who may have substantial barriers to employment by reason of age.

Master Plan—the part of the Job Training Plan which serves as a long-term agreement between the governor and a service delivery area.

Matching Funds for Eight Percent Programs—shall include all non-JTPA funds, whether in cash or in kind, used in direct support of employment or training services provided by state or local educational agencies.

Part-Time Employment—employment in which a worker is regularly scheduled to work less than the employer's full-time schedule for the worker's position.

Personal Service—work rendered by individuals which require use of creative or artistic skills, such as but not limited to graphic artists, sculptors, musicians, photographers, and writers, or which require use of highly technical or unique individual skills or talents, such as, but not limited to, paramedics, therapists, handwriting analysts, and expert witnesses for adjudications or other court proceedings.

Placement—the act of securing unsubsidized employment for or by a participant.

Professional Service—work rendered by an independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, which independent contractor shall include but not be limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, and accountants. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be

rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skill.

Program Plan—the part of the Job Training Plan which consists of the description of program activities and services to be provided by the service delivery area during the program year.

Property—all tangible non-consumable moveable property purchased with funds under the Act. The term moveable distinguishes this type of property from property attached as a permanent part of a building or structure. Please note that state law requires each item of moveable property having an acquisition cost or appraised value of \$250 or more to be placed on inventory.

Public Service Employment—the type of work normally provided by governments and includes, but is not limited to work (including part-time work) in such fields as environmental quality, child care, health care, education, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, veterans outreach, development of alternative energy technologies, and other fields of human betterment and community improvement. This activity is distinguished from work experience in that in general PSE is full-time and long term or open-ended and the participant is employed by the agency involved and not the SDA.

Real Property—land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Unsubsidized Employment—employment not financed from funds provided under the Act. In accordance with Section 106(k) of the Act for performance standard purposes, employment means employment for 20 or more hours per week.

Welfare Recipient—an individual who receives or whose family receives cash payments under AFDC (Title IV of the Social Security Act), General Assistance, or the Refugee Assistance Act of 1980 (P.L. 96-212). (This term excludes recipients of supplemental security income under Title XVI of the Social Security Act.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:331 (May 1983), amended LR 9:473 (July 1983), LR 10:546 (July 1984), LR 12:439 (July 1986), LR 13:359 (June 1987), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§103. Pre-award Financial Review

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19:

§105. Accounting Procedures

Accounting for JTPA funds must be on an accrual basis in

accordance with generally acceptable accounting principles. In accordance with §627.430(g)(2) of the regulations, a recipient/subrecipient shall not be required to maintain a separate bank account but shall separately account for federal funds on deposit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§107. Reporting of Expenditures

The service delivery area grant recipient shall prepare expenditure reports in accordance with procedures established by the recipient. These reports shall be on an accrual basis and conform to federal and state requirements in regard to the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§109. Requests for Cash

The financing of the JTPA program will be on an advance or reimbursement basis in accordance with procedures established by the recipient. Service delivery area grant recipients shall establish procedures that will minimize the time elapsing between the receipt of advanced funds and their disbursements in accordance with 31 CFR part 205. At no time shall the service delivery area grant recipient have funds which exceed three days expenditure needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§111. Purchasing Procedures

All purchases and leases of furniture, equipment, supplies, property, office and building space, capital improvements, and services shall be processed in accordance with procedures established by the recipient. All purchases of furniture, equipment, supplies, property, office and building space, and capital improvements, with a unit cost of \$5,000 or more must have the prior approval of the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§112. Advertising

Advertising media includes newspapers, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

1. recruitment of personnel required for the grant program;
2. solicitation of bids for the procurement of goods and services required;
3. disposal of scrap or surplus materials acquired in the performance of the grant agreement;
4. recruitment of participants, employers, other service providers, and general advertising for the SDA; and
5. other purposes specifically provided for in the grant agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§113. Travel and Transportation Regulations

A. All reimbursement for travel will be made in accordance with the travel regulations of the recipient, service delivery area grant recipient, administrative entity or subrecipient. Where subrecipient travel regulations are utilized, they shall at a minimum, conform with applicable standards of the recipient, service delivery area grant recipient, or administrative entity.

B. Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to the recipient or subrecipient program. Such costs may be charged on an actual basis on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two provided the method used is applied to an entire trip and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations are unallowable except when less-than-first-class air accommodations are not reasonably available. Each recipient or subrecipient must have clearly defined travel regulations including documentation requirements. These requirements must include travel reports which include the date of travel, travel destination, purpose, beginning and ending odometer reading, amount to be reimbursed, and supervisor signatures.

C. Costs incurred for freight, cartage, express, postage and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§114. Printing and Reproduction Costs

Costs for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature are allowable. Reasonable publication costs of reports or other media relating to grant program accomplishments or results are allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§115. Personnel, Salary Regulations and Fringe Benefits

A. All employment practices, salary schedules and related personnel procedures will be in accordance with the regulations of the service delivery area grant recipient, administrative entity or subrecipient.

B. Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries, and supplementary compensation and benefits. The costs of such compensation are allowable to the extent that total compensation for individual employees:

1. is reasonable for the services rendered;
2. follows an appointment made in accordance with recipient or subrecipient rules; and
3. is determined to be supported as provided below. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

C. Amounts charged to grant programs for personnel services will be based on payrolls documented and provided in accordance with generally accepted practice of the recipient or subrecipient. Payrolls must be supported by time and attendance or equivalent records for individuals. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

D. Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave and the like are allowable, if they are:

1. provided pursuant to an approved leave system; and
2. the cost thereof is equitably allocated to all related activities, including grant programs.

E. Employee benefits in the form of employers' contribution or expenses for social security, employee's life and health insurance coverage, workers' compensation insurance, pension plans, severance pay, and the like, are allowable, provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§116. Advisory Councils

Costs incurred by state advisory councils or committees, including the GETCC and PICs, established pursuant to the JTPA Regulations to carry out grant programs are allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§117. Auditing Requirements

SDA grant recipients, administrative entities and subrecipients who are government or non-profit entities must comply with the audit requirements of the "Single Audit Act of 1984"/OMB Circular-128 or OMB-Circular 133 as appropriate. Commercial organizations who are subrecipients shall be audited in accordance with §627.480(a)(3) of the federal regulations. Audit costs for auditing SDA grant recipients and administrative entities will be paid from state administrative funds upon request. Audit costs for subrecipients of SDA grant recipients and administrative entities must be paid by the service delivery area grant recipient or administrative entity. Other subrecipients contracted directly by the Louisiana Department of Labor will be audited in accordance with the "Single Audit Act of 1984" which incorporates the use of private audit firms or the legislative auditors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§119. Non-allowable Costs

In accordance with §627.435(e) (f) and (i) of the federal regulations some costs associated with JTPA are not considered as necessary and reasonable for proper and efficient administration of the program. These include:

1. costs of fines and penalties resulting from violations of or failure to comply with federal, state, or local laws and regulations;
2. back pay, unless it represents additional pay for JTPA services performed for which the individual was underpaid;
3. entertainment costs;
4. bad debts expenses;
5. insurance policies offering protection against debts established by the federal government;
6. contributions to a contingency reserve or any similar provision for unforeseen events;
7. costs prohibited by 29 CFR part 93 (Lobbying Restrictions);
8. costs of activities prohibited in §627.205, Public Service Employment Prohibition, §627.210; Nondiscrimination and Nonsectarian Activities; and §627.215, Relocation; §627.225, Employment Generating Activities; and §627.230, Displacement of the Federal Regulations;
9. legal services furnished by the chief legal officer of a state or local government or staff solely for the purpose of discharging general responsibilities as a legal officer are unallowable;
10. legal expenses for the prosecution of claims against the federal government, including appeals to an administrative law judge, are unallowable;
11. construction costs are not allowable costs except those specified in §627.435(h)(1) and (2) of the federal regulations;
12. fund-raising activities;
13. interest expense including interest on borrowing,

bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith;

14. contributions and donations as specified in OMB Circular A-87.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§120. Fees or Profits

Any fees or profits earned by the SDA grant recipient or subrecipients must be consistent with §627.420(e)(3) of the federal regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§121. Carry-Over Balances

Funds obligated for any program year may be expended by each recipient or service delivery area grant recipient during that program year and the two succeeding program years with the following exceptions:

1. Title II-A and Title II-C Reallotment and Reallocation Policy

a. For program years beginning on or after July 1, 1993, the governor shall, in accordance with §109 of the Act and §627.410 of the federal regulations, reallocate to eligible service delivery areas within the state funds appropriated for such program year that are available for reallocation.

b. The amount available for reallocation is equal to the amount by which the unobligated balance of the SDA's allocation under Part A and Part C of Title II at the end of the program year prior to the program year for which the determination is made exceeds 15 percent of such allocation for the prior program year.

c. In addition, Louisiana will use the reallotment process for SDAs at the end of each program year whether or not the state is subject to a reduction in funding due to reallotment. This will allow the state to deal with significant underexpenditure of funds by individual SDAs even when the state maintains a high overall level of expenditures.

d. In the event that Louisiana is not subject to a reduction in funding, but one or more SDAs are subject to a reduction based on Louisiana's policy, funds deobligated from such SDAs will be allocated to the remaining SDAs who are not subject to a reduction that have the highest rates of unemployment for an extended period of time and to those with the highest poverty rates.

2. Title II-B - Reallocation Policy

a. Section 161(b) of the Act provides that no amount of funds "shall be deobligated on account of a rate of expenditure which is consistent with the job training plan." In order to remain consistent with this policy, if an SDA's rate of expenditure is inconsistent with the job training plan, its new obligational authority (NOA) may be reduced in subsequent years in order to, in effect, reallocate funds from that program year.

b. Beginning in Program Year 1995 and applying to

Program Year 1994, an amount equivalent to 15 percent of the previous year's total funds available will be classified as "allowable carry-out."

c. All other carry-out will be designed as "excess carry-out" and the obligational authority (NOA) to the SDA will be reduced by the amount of the excess carry-out. Determination of total carry-out and the excess carry-out will be made after submittal of the final program year expenditure report and reallocation of funds will be made to those SDAs which request the funds and have expended more than 85 percent of their total funds available. The reallocation will be based on the degree that SDAs exceed the 85 percent expenditure level.

3. Title III - Reallotment and Reallocation Policy

a. Excess Unexpended Funds

i. The U.S. Department of Labor has established Title III reallotment procedures that have the effect of limiting the amount of unexpended funds that can be carried-over by the state at the end of each program year. Reallotment also rewards states with high expenditure rates by providing additional funds. These procedures are described in Section 303 of the Job Training Partnership Act, Section 6305(e) of the Economic Dislocation and Worker Adjustment Assistance Act, §631.12 of JTPA Federal Regulation, and Training and Employment Guidance Letter (TEGL) No. 4-88 issued by the U.S. Department of Labor.

ii. Reallotment will occur around September 1 and will result in an increase or decrease in the state's formula-allotted funds for the current year based on a reallotment process applied to the prior year's Title III funds and expenditures. When reallotment results in an increase in funding, such reallocation is subject to allocation procedures specified in §631.32 of the federal regulations. When reallotment results in a decrease in funding, the procedures that follow will be used to recover funds from substate grantees and, where appropriate, state subcontractors in order to make funds available to the U.S. Department of Labor for reallotment. Any remaining funds would come from the governor's 40 percent funds.

iii. Louisiana will apply the same reallotment procedures to sub-state grantees and state subcontractors that the U.S. Department of Labor applies to the state. Our reallotment policy states that the amount available for reallotment from substate grantees and state subcontractors is equal to the sum of unexpended funds in excess of 20 percent of the prior year's allocation or subgrant amount and all unexpended previous program year funds. For PY 88 allocations and subgrants, 30 percent shall be substituted for 20 percent in the previous sentence. Unexpended reallocated funds at the end of the year will also be subject to the 20 percent limitation on allowable carry forward. Substate grantees and state subcontractors that lose funds through the reallotment process will use their allocation or subgrant amount before reallotment in order to calculate allowable carry forward.

iv. In addition, Louisiana will use the reallotment process for substate grantees and, where appropriate, state subcontractors at the end of each program year whether or not the state is subject to a reduction in funding due to

reallotment. This will allow the state to deal with significant underexpenditure of funds by individual substate grantees and state subcontractors even when the state maintains a high overall level of expenditures.

v. In the event that Louisiana is not subject to a reduction in funding, but one or more substate grantee(s) or state subcontractor(s) are subject to a reduction based on Louisiana's policy, funds deobligated from such substate grantees will be allocated by formula to the remaining substate grantees who were not subject to a reduction. This allocation will be in addition to any funds reallocated by the U.S. Department of Labor and subsequently allocated to substate areas. Any funds deobligated from state subcontractors as a result of these procedures are subject to regular Title III state obligation procedures.

b. Projected Excess Unexpended Funds

i. Louisiana is subject to a U.S. Department of Labor JTPA Title III reallotment process based on expenditures at the end of each program year. In order to avoid a reduction in funding from such a reallotment, a deobligation procedure has been established.

ii. Title III substate grantees and state subcontractors are subject to deobligation of projected excess unexpended funds based on expenditures during the first five months of their subgrant or subcontract period. Projected excess unexpended funds are defined as any amount of projected unexpended funds in excess of 20 percent of a substate grantee's available funds (excluding carry-in funds and any additional funds reallocated during that program year as a result of the U.S. Department of Labor's reallocation process) or 20 percent of a subcontract amount. Projected unexpended funds are total available funds (excluding reallocated funds) less expenditures reported for the first five months and less an amount equal to the higher of the last two months reported expenditure amounts times the number of months remaining in the subgrant or subcontract period. Expenditure amounts used for this process will be those amounts reported as of the official due date specified by the Louisiana Department of Labor's fiscal section. Funds remaining after deobligation will be subject to all cost category limitations.

iii. Substate grantees and state subcontractors will have 15 days from the date they are notified of any amount subject to deobligation to provide documentation to the Louisiana Department of Labor why they should not be subject to such deobligation. The Louisiana Department of Labor may reduce the amount to be deobligated based on acceptance of documentation of corrected expenditure amounts, significant recent obligations not reflected in current reported expenditures, or other appropriate justification.

iv. All funds deobligated from substate grantees will be allocated by formula to substate grantees whose total projected unexpended funds are not expected to exceed allowable projected unexpended funds. Funds deobligated from state subcontractors are subject to regular Title III state obligation procedures.

v. This deobligation procedure does not limit the Louisiana Department of Labor's authority to unilaterally deobligate funds from subgrants and subcontractors when it is deemed necessary in order to carry out responsibilities under

the Job Training Partnership Act.

4. Reallocation Waiver. The reallocation policies may be waived for SDAs and substate grantees operating under a reorganization plan issued by the governor in accordance with procedures established by the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), amended LR 10:546 (July 1984), LR 15:496 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended LR 18:372 (April 1992), repromulgated LR 18:493 (May 1992), amended by the Department of Labor, Office of Labor, LR 19:

§122. Depreciation and/or Use Allowance

A. Compensation for the use of buildings, capital improvements, and equipment through use allowances or depreciation is allowable. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

B. The computation of depreciation or use allowance will be in accordance with A-87 Cost Principles for State and Local Governments, Attachment B.

C. Depreciation or use allowance on idle or excess facilities is not allowable, except when specifically authorized by the grantor federal agency.

D. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§123. Program Income Guidelines

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19:

§124. Building Space and Related Facilities

A. The cost of space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below.

B. The total cost of space, whether in a privately or publicly owned building may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy without authorization of the recipient agency.

C. The cost of utilities, insurance, security, janitorial

services, elevator services, upkeep of grounds, normal repairs and alternations and the like, are allowable to the extent they are not otherwise included in the rental or other charges for space.

D. Costs incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value or useful life of the facilities are allowable when specifically approved by the recipient.

E. Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition are allowable.

F: Depreciation and use allowances on publicly owned buildings are allowable as provided in §122 of these state rules (Depreciation and Use Allowance).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§125. Financial and Programmatic Monitoring and Record Retention

The recipient reserves the right to monitor the financial and programmatic operations of all service delivery area grant recipients. The service delivery area grant recipients shall comply with the record retention requirements at 20 CFR 627.460.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§126. Insurance Costs

Costs of insurance in connection with the general conduct of activities under the program, including but not limited to, workers' compensation insurance, insurance for injuries suffered by participants who are not covered by workers' compensation, personal liability insurance for PIC members, and insurance covering the risk of loss of, or damage to JTPA property, are allowable subject to the following limitations:

1. Types and extent and cost of coverage will be in accordance with general state and local policy and sound business practice;

2. Contributions to a reserve for a self-insurance program approved by the recipient are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had the insurance been purchased to cover the risks.

3. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§127. Inventory Control

Property purchased or assumed under the act must be maintained in an efficient and effective manner and shall not be used for purposes other than the act. Service delivery area grant recipients shall obtain written approval from the recipient prior to the disposition of property covered by the act. Proceeds of such disposition shall be considered program income as regulated by Section 141(m) of the act and §627.450 of the regulations. Please note that state law requires each item of moveable property having an acquisition cost or appraised value of \$250 or more to be placed on inventory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§128. Taxes

In general, taxes or payments in lieu of taxes which the recipient/subrecipient is legally required to pay are allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§129. Contractual Agreement

A. The service delivery area grant recipients may enter into contractual agreements with any profit and/or nonprofit organization. Service delivery area grant recipients will be responsible for their subrecipients' financial and programmatic operations and will insure compliance with state and federal regulations. Service delivery area grant recipients may require their subrecipients to implement policies in those areas mentioned in these rules similar to the service delivery area grant recipient's policies. The recipient has the right to inspect financial records or program records of any service delivery area grant recipient or subrecipients.

B. In accordance with §627.422 of the federal regulations, each SDA shall ensure that, for all services provided to participants through contracts, grants, or other agreements with a service provider, such contract, grant, or agreement shall include appropriate amounts necessary for administration and supportive services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§130. Preagreement Costs

Costs incurred prior to the effective date of the grant or contract, whether or not they would have been allowable thereunder if incurred after such date, are allowable when specifically provided for in the grant agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§131. Bonding

Every officer, director, agent or employee of a service delivery area grant subrecipient of JTPA funds on a cash advance basis, who is authorized to act on behalf of a service delivery area grant recipient for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks or other instruments of payment for program costs shall be bonded to provide protection against loss. The amount of coverage shall be the lower of the following:

1. \$50,000; or

2. the highest advance through check or drawdown planned during the contract/subgrant period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§133. Professional, Personal, and Consultant Services

A. Contracts for professional, personal, and consultant services are allowable with prior written approval of the recipient and in accordance with procedures established by the recipient. Approval must be obtained annually.

B. The costs of management studies to improve the effectiveness and efficiency of grant management for ongoing programs is allowable except that the costs of studies performed by agencies or individuals other than the recipient are allowable only with prior written approval of the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended LR 18:372 (April 1992), amended by the Department of Labor, Office of Labor, LR 19:

§135. Funds for Cooperative Agreements

AUTHORITY NOTE: Promulgated in accordance R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19:

§137. Contents of Cooperative Agreement

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19:

§139. Deobligation of State Education Cooperative Agreement Funds

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor,

Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19:

§141. Redesignation of Service Delivery Area Grant Recipient

Petitions for redesignation of a service delivery area must be filed with the governor no later than six months before the beginning of the ensuing program year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§143. Maintenance of Document

The original documents must be maintained unless prior approval from the recipient has been granted to substitute microfilm or similar methods in lieu thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§145. Modification/Amendment of Service Delivery Area Job Training Plan

A. The approved two-year job training plan may be changed in two ways: by modification and by amendment.

B. A plan modification is a revision of the approved job training plan which requires PIC-CEO approval and is subject to the requirement of Section 104 and 105 of the act. Summaries of plan modifications must be published for public review and comment no later than 80 days prior to the effective date of the modification. In accordance with Section 104(C) a service delivery area must modify its Job Training Plan when one or more of the following occur:

1. a significant change in labor market or other conditions occurs that would have an adverse impact on its performance;
2. change in grant recipient or administrative entity;
3. change in the geographic area served;
4. a change in funding of more than 20 percent of the annual allocation;
5. obligation of Title II allocations for the second year of the two-year plan period;
6. any other factors which require modification shall be at the discretion of the governor;

C. A plan amendment is a minor adjustment to the approved job training plan. There is no publication requirement, however PIC/CEO approval is required. A plan amendment must be submitted via a cover letter explaining the amendment and should be signed by the PIC chairperson and CEO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor,

LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§147. Participant Rights and Benefits

Each service delivery area grant recipient and its subrecipients shall inform each participant of his rights and benefits at the time of enrollment into any activity under the act and shall require each participant to sign a statement that he has been advised of his rights and benefits. This signed statement shall become a permanent part of each participant's official record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§148. Payments to OJT Employers, Training Institutions, and Other Vendors

Payments to On-the-Job Training employers, training institutions and other vendors are allowable and should be made in accordance with applicable sections of the JTPA federal regulations and any procedures established by the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19:

§149. Grievance Procedure

Each service delivery area grant recipient and its subrecipients shall adopt a procedure for resolving any grievance including those alleging a violation of the act, federal or state regulations, or other agreements under the act. These procedures shall be in compliance with 20 CFR Part 627 Subpart E and shall be made a part of the service delivery area Job Training Plan. All grievance procedures shall provide for the exhaustion of remedies provided therein before appeal to the governor for review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§151. Non-discrimination Procedure

Service delivery area grant recipients and its subrecipients shall comply with the applicable requirements of 29 CFR 31, 32 and 34.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§153. Participant Supportive Services

Participant supportive services, needs-based payments, cash incentive payments and bonuses to youth enrolled in Title II-C, and financial assistance are allowable and should be made in accordance with applicable sections of the JTPA Federal

Regulations and procedures established by the recipient. Needs-based payments shall be determined in accordance with a locally developed formula or procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§155. Conditional Approval of Job Training Plan

In order to expedite program operations the governor may, at his option, grant partial or conditional approval to a service delivery area Job Training Plan. Such approval will spell out the parameters within which the Job Training Plan may operate and the revision necessary for final approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repromulgated by the Department of Labor, Office of Labor, LR 19:

§157. Duplication of Services

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19:

§159. Administrative Cost Pooling

Funds for the administration of programs under the act within the service delivery area may be pooled pursuant to §627.440(f) of the regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§161. Statewide Management Information System

Each service delivery area grant recipient will be responsible for maintaining a client tracking and management information system that will interface required data with the Louisiana Department of Labor statewide automated system established for JTPA purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§163. Prevention of Fraud and Program Abuse

A. To ensure integrity of programs under the act, special efforts are necessary to prevent fraud and other program abuses. Fraud includes deceitful practices and intentional misconduct, such as willful misrepresentation in accounting for use of program funds. "Abuse" is a general term which encompasses improper conduct which may or may not be

fraudulent in nature. While any violation of the Act or regulations may constitute fraud or program abuse, this rule identifies and addresses specific areas which need clarification.

B. This rule sets forth specific responsibilities of recipients, service delivery area grant recipients and subrecipients to prevent fraud and program abuse in JTPA.

C. Conflict of Interest

1. In addition to the standards set forth below, the State Code of Governmental Ethics contains restrictions concerning conflicts of interest. Any issues regarding the State Code of Governmental Ethics should be brought before the Commission of Ethics for Public Employees.

a. No member of any council under the act shall cast a vote on the provision of services by that member or any organization which that member directly represents or any matter which would provide direct financial benefit to that member. Caution must be exercised by members to insure that council action does not render the member in violation of R.S. 42:1112, which under certain circumstances may require members to cure the conflict of interest through resignation.

b. Each recipient, service delivery area grant recipient and subrecipients shall avoid personal conflict of interest and appearance of conflict of interest in awarding financial assistance and in the conduct of procurement activities involving funds under the act.

c. Neither the recipient, any service delivery area grant recipient nor subrecipients shall pay funds under the act to any individual, institution, or organization to conduct an evaluation of any program under the act if such individual, institution, or organization is associated with that program as a consultant or technical advisor.

D. Kickbacks. No officer, employee, or agent of the recipient, service delivery area grant recipient or subrecipients shall solicit or accept gratuities, favors, or anything of monetary value from any actual or potential subrecipient.

E. Commingling of Funds. The recipient, service delivery area grant recipients and subrecipients shall comply with the applicable requirements of 29 CFR 97.21(h) and R.S. 49:321.

F. Nepotism. The State Code of Governmental Ethics contains restrictions against the hiring of certain family members. Questions regarding the hiring of family members should be referred to the Commission on Ethics for Public Employees.

G. Child Labor. The recipient, service delivery area grant recipients and subrecipients shall comply with applicable federal, state and local child labor laws.

H. Political Patronage

1. Neither the recipient, service delivery area grant recipients, nor any subrecipients may select, reject, or promote a participant based on that individual's political affiliation or beliefs. The selection or advancement of employees as a reward for political services or as a form of political patronage whether or not political services is partisan in nature, is prohibited.

2. There shall be no selection of subrecipients based on political patronage or affiliation.

I. Political Activities

1. No program under the act may involve political activities, including but not limited to:

a. No participant may engage in partisan or

non-partisan political activities during hours for which the participant is paid with JTPA funds;

b. No participant may, at any time, engage in partisan political activities in which such participant represents himself/herself as spokesperson of the JTPA program;

c. No participant may be employed or outstationed in the office of a member of Congress or a state or local legislator or on any staff of a legislative committee.

d. No participant may be employed or outstationed in positions involving political activities in the offices of other elected executive officials. However, since under the responsibility of such elected officials are non-political activities, placement of participants in such non-political positions is permissible. Service delivery area grant recipients and subrecipients shall develop safeguards to ensure that participants placed in these positions are not involved in political activities. These safeguards will be subject to review and monitoring.

2. Persons governed by Chapter 15 of Title 5, United States Code, the Hatch Act, shall comply with its provisions as interpreted by the United States Office of Personnel Management. These provisions apply:

a. to persons (including participants) employed by state and local government in the administration of the JTPA program; and

b. generally to any participant whose principal employment is in connection with an activity financed by other federal grants or loans.

J. Lobbying Activities. No funds provided under the Act may be used in any way:

a. to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress;

b. to attempt to influence in any manner state or local legislators to favor or oppose any legislation or appropriation by such legislators. Communications and consultation with state and local legislators for purposes of providing information such as on matters necessary to provide compliance with the Act shall not be considered lobbying.

K. Sectarian Activities. The Act provides the following prohibitions regarding sectarian activity:

a. participants shall not be employed on the construction, operation or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship; and

b. participants shall not be involved, nor JTPA funds expended, for religious or anti-religious activities.

L. Unionization and Antiunionization Activities/Work Stoppages

1. No funds under the act shall be used in any way to assist, promote or oppose unionization.

2. No individual shall be required to join a union as a condition for enrollment in a program in which only institutional training is provided, unless such institutional training involves individuals employed under a collective bargaining agreement which contains a union security provision.

3. No participant in work experience may be placed into, or remain working in any position which is affected by labor

disputes involving a work stoppage. If such a work stoppage occurs during the grant period, participants in affected positions must:

a. be relocated to positions not affected by the dispute;

b. be suspended through administrative leave; and

c. where participants belong to the labor union involved in the work stoppage, be treated in the same manner as any other union member except such members must not remain working in the affected position. The grantee shall make every effort to relocate participants, who wish to remain working, into suitable positions unaffected by the work stoppage.

4. No person shall be referred to or placed in an on-the-job training position affected by a labor dispute involving a work stoppage and no payments may be made to employers for the training and employment of participants in on-the-job training during the periods of work stoppage.

5. Nothing in this Section shall prevent an employer from checking off union dues or service fees pursuant to applicable collective bargaining agreements or state law.

6. No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

7. No program under this act shall impair existing contracts for services or existing collective bargaining agreements, unless the employer and the labor organization concur in writing with respect to any elements of the proposed activities which affect such agreement, or either such party fails to respond to written notification requesting its concurrence within 30 days of receipt thereof.

8. No participant shall be employed or job openings filled when any other individual is on layoff from the same or any substantially equivalent job, or when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

9. No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

M. Maintenance of Effort

1. To ensure maintenance of effort under all programs under the act, the recipient, service delivery area grant recipients and subrecipients shall ensure that such programs:

a. result in an increase in employment and training opportunities over those which would otherwise be available.

b. do not result in the displacement of currently employed workers including partial displacement, such as reduction in hours of nonovertime work, wages, or employment benefits.

c. do not impair existing contracts for services or result in the substitution of federal funds for other funds in connection with work that would otherwise be performed including services normally provided by temporary, part-time or seasonal workers or through contracting such services out; and

d. result in the creation of jobs that are in addition to those that would be funded in the absence of assistance under the act.

2. Funds under this act shall supplement, and not supplant, the level of funds that would otherwise be made available from non-federal sources for the planning and administration of programs.

N. Responsibilities of Service Delivery Area Grant Recipients and Subrecipients for Preventing Fraud and Program Abuse and for General Program Management General Requirements. Each service delivery area grant recipient and subrecipients shall establish and use internal program management procedures sufficient to prevent fraud and program abuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§165. Governor's Responsibility

The governor or his designee reserves the right to issue directives, instructions, or other issuances to the Service Delivery Area (SDA) grant recipients, administrative entities and other subrecipients in order to carry out his responsibility as required by the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:456 (July 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repromulgated by the Department of Labor, Office of Labor, LR 19:

§167. CETA Property

All existing nonexpendable Comprehensive Employment and Training Act (CETA) property with an acquisition cost of less than \$1,000 per unit may be used by the possessing recipient, SDA grant recipient, administrative entity, or state agency holding title, to satisfy the matching requirements of the act in accordance with the definition of "Matching Funds for Eight Percent Programs" found in §101 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:456 (July 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§169. Occupational Demand

Except as otherwise provided, training provided with funds made available under this act shall be only for occupations for which there is a demand in the area served, or in other areas to which the participant is willing to relocate.

All contracts that are being funded by JTPA money where the intent of the contract is placement shall have performance goals including placement goals incorporated in that contract unless otherwise specified by the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:917 (November 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repromulgated by the Department of Labor, Office of Labor, LR 19:

§171. Labor Organizations

Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the same area as that proposed to be funded under this act, an opportunity shall be provided for such organization to submit comments with respect to such proposals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:917 (November 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

§173. Deadlines

Not less than 120 days before the beginning of the first of the two program years covered by the JTPA Plan:

1. the proposed plan or summary thereof shall be published; and
2. such plan shall be made available for review and comment to:

- a. each house of the Legislature;
- b. local educational and public agencies; and
- c. the labor organization in the area which represents employees having the skills in which training is proposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:917 (November 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19:

A public hearing will be held on October 26, 1993 at 9:30 a.m. in the third floor conference room of the Department of Labor Annex Building. Interested persons are invited to submit oral or written comments on the proposed regulations. Such comments should be submitted no later than October 25, 1993, at 4 p.m. to Ancil Wilkinson, Box 94094, Baton Rouge, LA 70804-9094, phone (504)342-7621.

Gayle F. Truly
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Job Training Partnership Act

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs or savings to state or local governmental units. These proposed rules are required as a result of the revision of the Federal Job Training Partnership Act.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly

affected persons or non-governmental groups. Each service delivery area in the state has been made aware of the proposed revisions and none have raised a concern pertaining to an increase or decrease in costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Gayle F. Truly
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Natural Resources Office of Conservation Injection and Mining Division

Statewide Order 29-O-1

Under the authority of the Louisiana Surface Mining and Reclamation Act, particularly R.S. 30:901 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 Surface Mining Regulations, Statewide Order 29-O-1.

The federal Office of Surface Mining Reclamation and Enforcement, under the provisions of 30 CFR 732.17(d), has notified the Louisiana Office of Conservation, Injection and Mining Division of changes in Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and the federal regulations promulgated pursuant to SMCRA which make it necessary for Louisiana to modify its Surface Mining Regulatory Program to remain consistent with all federal regulations. The Director of the Office of Surface Mining Reclamation and Enforcement approved the proposed amendments in *Federal Register*, Vol. 57, No. 209, October 28, 1992, pp. 48726-48730.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held at 10 a.m., Thursday, October 28, 1993, in the Conservation Hearing Room located on the first floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA at which time all interested persons will be afforded an opportunity to submit oral and written comments regarding amendments to Statewide Order 29-O-1, Louisiana Surface Mining Regulations.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than 4 p.m., October 28, 1993, to James H. Welsh, Injection and Mining Division, Office of Conservation, Box 94275, Baton Rouge, LA, 70804-9275.

Copies of these proposed regulations may be obtained or viewed at the Office of the State Register, 1051 North Third, Baton Rouge, LA 70802, phone (504)342-5015 or through the Department of Natural Resources, Office of Conservation, 625 North Fourth Street, Baton Rouge, LA 70804.

H.W. Thompson
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Amendments to Statewide Order 29-O-1

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs (savings) to state or local governmental units since Louisiana presently has surface mining rules in effect and the proposed changes will keep Louisiana's Surface Mining Program in compliance with the approved Federal regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Louisiana presently receives \$201,000 in federal funds and \$255,000 in state matching funds to administer the Surface Mining Program. Failure to amend the Louisiana rules to make them consistent with the federal regulations would cause the state to lose this funding.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

These proposed rules may result in additional costs to surface mining operators. Among the more significant provisions, the rules require surface mining permit applications to contain more extensive information on sub-surface strata, groundwater resources, surface water bodies and the probable hydrological consequences of the proposed mining. Also, operator expenses may increase due to stronger revegetation requirements, inclusion of intermittent streams in buffer zones, protection of endangered species and stricter requirements for operations conducted on prime farmland. Sufficient data does not exist to estimate the impact of these costs.

Benefits will be realized by persons in the vicinity of the surface mining operations and the state's citizens generally due to the reclamation of the surface mining property according to state and federal standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendments will bring the Louisiana Surface Mining Program into compliance with the federal SMCRA regulations and will insure the continued operation of surface mining in Louisiana.

H.W. Thompson
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Board of Parole

Sex Offenders (LAC 22:XI)

In accordance with the Administrative Procedure Act, R.S. 49:953(B) and in order to implement Acts 388 and 962 of the 1992, Regular Legislative Session, The Department of Public Safety and Corrections, Board of Parole, hereby gives notice of its intent to adopt regulations regarding sex offenders.

This proposed rule was adopted as an emergency rule effective August 20, 1993 and appeared on page 1003 of the August, 1993 *Louisiana Register*.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part XI. Board of Parole

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

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

C. Definitions

He—all forms of masculine pronouns are used. This is intended to refer to either sex and is used as a matter of convenience.

Louisiana Board of Parole—the board.

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

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

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

D. Notification

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

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

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

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

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

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

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

E. Notification - Victim Under 18 Years Old

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

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

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

- a. a sex offender must give notice of the crime, his name and address by mail to the following:
 - i. all persons residing within a three square block area or a one square mile area if in a rural area in accordance with Form A;
 - ii. superintendent of public schools in the area he will reside;
 - iii. heads of all parochial and private schools in the area he will reside;
 - iv. child protective services in the area he will reside.
- b. the above must be done within 30 days of either sentence to probation, release or parole, or acceptance by Louisiana through the Interstate Compact.
- c. a sex offender shall publish notice of his name, address and crime for which he was convicted and paroled, on two separate days in the official journal of the governing authority of the parish where the sex offender will reside, in accordance with Form B.
- d. the board may order any form of notice they deem necessary.

F. Additional Conditions:

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

G. Term:

- 1. All sex offenders must comply with these requirements for a period of 10 years after the conviction, if not imprisoned during that period in a penal institution, full-time residential treatment facility, hospital, or other facility or institution

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

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

H. Release of Information

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

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

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

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

FORM "A"

STAMPED POST CARD

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

NAME: _____

ADDRESS: _____

OFFENSE OF CONVICTION: _____

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

FORM "B"

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

NAME: _____

ADDRESS: _____

OFFENSE OF CONVICTION: _____

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

Name of Publication

Name of Publication

Address

Address

City/State/Zip Code

City/State/Zip Code

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 19:

Interested persons may submit oral or written comments to Ronald Bonvillian, chairman, Louisiana Board of Parole, Box 94303, Baton Rouge, LA 70804-9304, (504) 342-6622. Comments will be accepted through the close of business at 4:30 p.m. on October 20, 1993.

Ronald Bonvillian
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sex Offender Rules**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs to the Parole Board as the parolee is responsible for paying for the advertisement and for mailing out the notifications in the community as required by law.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs or benefits involved.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no additional hiring due to this new rule.

Ronald Bonvillian
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Revenue and Taxation Office of the Secretary

Timely Filing Date (LAC 61:I.4903)

In accordance with R.S. 49:950 et seq. of the Administrative Procedure Act, notice is given that the Department of Revenue and Taxation proposes to adopt the following rule concerning the timely filing date when the due date of a report or return falls on a Saturday, Sunday, or legal holiday as authorized by R.S. 9:188, 26:453, 45:1179, 47:1511, and 47:2425.

The individual income tax and corporation income and franchise tax statutes specify that the timely filing date when the due date falls on a weekend or holiday is the next business day. Other tax statutes do not specify the timely filing date in these instances; for some taxes it is deemed to be the last work day prior to the weekend or holiday and for others it is the following day. This rule establishes consistency for all taxes in determining delinquencies and assessing interest and penalties.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 49. Tax Collection

§4903. Timely Filing when the Due Date Falls on Saturday, Sunday, or Legal Holiday

A. Unless otherwise specifically provided, when the due date of any report or return prescribed under the laws administered by the Department of Revenue and Taxation, falls on a Saturday, Sunday, or a legal holiday, the report or return shall be considered timely if it is filed on the next business day.

B. Definitions. For the purposes of this Section, the following terms are defined:

Legal Holiday—any legal holiday observed by the State of Louisiana or the United States Post Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:188, 26:453, 45:1179, 47:1511, and 47:2425.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:

Interested persons may submit their written comments on the proposed rule to: Ellen Rhorer, Director, Research and Technical Services Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821. Comments will be accepted through the close of business on Thursday, October 28, 1993 at 4:30 p.m.

Ralph Slaughter
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Timely Filing of Tax Returns Weekends and Holidays

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated increase in costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on state revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
All taxpayers and entities required to file reports with the Louisiana Department of Revenue and Taxation will be directly affected by the proposed action. This rule will eliminate confusion and inconsistency in determining when a return is deemed timely filed if the filing due date falls on a weekend or holiday. This action should allow easier compliance in meeting filing deadlines.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition or employment.

Ralph Slaughter
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Revenue and Taxation Severance Tax Division

Natural Gas Franchise Tax (LAC 61:I.Chapter 41)

Under the authority of R.S. 47:1031-1034 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Severance Tax Division, proposes to amend LAC 61:4101-4107 pertaining to the natural gas franchise tax.

These regulations deal with the tax on Natural Gas Franchise and apply only to taxable periods beginning after December 31, 1993. In accordance with R.S. 47:1031-1034, the revision proposed by these rules will eliminate the cost of gas purchased for resale as a deduction and includes a pipeline conversion table to convert various pipe sizes to a standard 12 inch equivalent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation Chapter 41. Public Utilities and Carriers: Natural Gas Franchise Tax

§4101. Imposition of Tax

This tax shall apply to any corporation engaging in the business of transporting natural gas by pipeline for hire, sale, or use. The tax is based on the gross receipts as defined in

R.S. 47:1032, 1033 and 1034, and these regulations pertaining thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1031.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Severance Tax Division, June 1973, amended LR 19:

§4103. Gross Receipts: General Definition

"Gross receipts" as defined in R.S. 47:1032 is construed to embrace total operating revenues, as described in (but not limited to) the Federal Energy Regulatory Commission Uniform System of Accounts, and revenues from manufactured gas, transportation for others, storage, sale of products extracted from gas, incidental gasoline and oil sales, and compressor fuel whether purchased or allowed for contractually. Non-operating (non-utility) revenues such as dividend and interest income, tax refunds, merchandising and jobbing receipts (i.e. sale and installation of equipment), and rentals from land, buildings and other non-utility property are not to be included in taxable gross receipts. For purposes of determining gross receipts under R.S. 47:1032 and 1033, cost of gas purchased for resale is no longer deductible. In the absence of gross receipts, R.S. 47:1034 and regulations applicable thereto shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1032.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Severance Tax Division, June 1973, amended LR 19:

§4105. Gross Receipts: Interstate Business

A. Gross receipts from business beginning and ending within this state are taxable at one percent and shall not be included in the ratio proportion described in R.S. 47:1033.

B. The mileage as classified and/or defined by the Federal Energy Regulatory Commission as transmission lines (and reported for the prior year) shall be used to determine total and Louisiana mileage and to ascertain the average gross receipts per mile. Mileage shall mean the sum total of the actual lineal miles of all different sizes of pipeline (operated at any time during the taxable period) converted to 12 inch pipeline equivalent mileage. The following table must be used to convert various sizes of pipeline miles to 12 inch pipeline equivalent miles.

Natural Gas Franchise Tax 12" Pipeline Equivalent Miles Conversion Table			
Column A	Column B	Column C	Column D
Pipe size	Actual Miles	Conversion Factor to 12" Line	12" Equivalent Miles (Col B x Col C)
2"		0.0277	
3"		0.0625	
4"		0.1111	
5"		0.1736	
6"		0.2500	
8"		0.4444	
10"		0.6944	
12"		1.0000	
14"		1.3611	
16"		1.7777	
18"		2.2500	
20"		2.7777	
22"		3.3611	
24"		4.0000	
26"		4.6944	
30"		6.2500	
36"		9.0000	
42"		12.2500	
48"		16.0000	

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1033.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Severance Tax Division, June 1973, amended LR 19:

§4107. Gross Receipts: Transportation for Own Use

Where there are no actual receipts upon which to base the tax, the base will be the cost of the natural gas delivered at the point of use as determined from the books of the owner or the average of the monthly spot market price of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1034.

HISTORICAL NOTE: Promulgated by the Department of

A public hearing will be held where all interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing. The hearing will be on Thursday, October 28, 1993 at 1:30 p.m. in the Department of Revenue and Taxation secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Ralph Slaughter
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Natural Gas Franchise Tax**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on the department's costs to administer the natural gas franchise tax law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent that transmission firms have not completed the transition to carrying gas only for hire, there may still be receipts that are associated with sales of gas by these firms, and that will become taxable under this new rule. This will result in additional tax receipts to the State until such time as the transition is completed. The amount of receipts that may be affected by this and the length of time these receipts may be affected is not known.

Firms carrying gas for their own use will have the value of that gas subject to tax in an amount determined by their own book value of the gas or by the average monthly spot market price of gas fuels delivered into pipelines in Louisiana as reported by the Natural Gas Clearing House. This will result in additional tax receipts to the state. The amount of receipts that may be affected by this is not known.

The implementation of a 12 inch pipeline equivalent miles conversion table will likely increase State tax receipts. The effect of State tax receipts will be the net effect of the pipeline conversion calculations for each interstate firm. Since Louisiana is a major producer of natural gas for the entire country, it is likely that pipeline diameters in the state tend to be larger than the average diameter of total pipeline miles. Thus, interstate firms will likely have a larger proportion of total mileage calculated as Louisiana mileage and a greater amount of gross receipts subject to tax. This will result in additional tax receipts to the state. However, there may be exceptions to this and the actual effect on state tax receipts will depend on the net effect of the pipeline conversion calculations for each interstate firm. The amount of this effect is not known.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Firms transporting natural gas by pipeline will likely have increased tax liabilities as a result of these proposed regulations. The amount of this increased tax liability is not known.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

An increase in tax costs to this industry may result in reduced employment levels or employment growth if firms attempt to reduce payroll costs in order to maintain profit margins. However, it is not known if the increased tax costs likely from

these new regulations will be significant enough to elicit compensating reductions in other costs or whether any compensating cost reductions that do occur will be targeted at employment costs, or if the Federal Energy Regulatory Commission will allow any increase in taxes to be passed on in "for-hire" tariffs.

Ralph Slaughter
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Transportation and Development
Office of General Counsel
Crescent City Connection Division**

Toll Exemptions-Firemen (LAC 70:I.507)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to adopt a rule entitled Crescent City Connection - Exemptions from Tolls-Firemen, in accordance with R.S. 33:1975.

**Title 70
TRANSPORTATION**

Part I. Office of General Counsel

Chapter 5. Tolls

§507. Crescent City Connection Exemptions-Firemen

A. Purpose. All firemen, volunteer firemen shall have free and unhampered passage on and over the Crescent City Connection bridges, the Gretna/Jackson Avenue ferry, the Algiers/Canal Street ferry and the Lower Algiers/Chalmette ferry.

B. Procedure for Firemen

1. All firemen as defined in R.S. 39:191(A) shall present an identification card containing a photographic picture of the fireman for inspection by the toll collector. The identification card must be issued by the municipality, parish or district as referred to in R.S. 39:191(A).

2. All firemen shall sign a register at the toll booth or station, and provide the name of agency, municipality, parish or district for which they are employed or engaged.

3. After compliance with Paragraphs 1 and 2 above, free and unhampered passage will be granted to the fireman.

C. Procedure for Volunteer Firemen

1. All volunteer fire organizations shall apply to the Crescent City Connection Division and shall certify to the following:

a. the address of the volunteer fire organization's domicile or headquarters;

b. the general location served by the volunteer fire organization;

c. that the members of the volunteer fire organization are required to travel across the facilities, stated in the above paragraph pertaining to purpose, in the performance of official fire fighting or fire prevention services;

d. the number of crossings made in one year, on the facilities stated in the Subsection A above pertaining to purpose, by volunteer firemen members of the volunteer fire organization.

2. The application must be signed by the chief executive officer of the volunteer fire organization.

3. Vehicle Passes

a. Upon approval of an application, the Crescent City Connection Division shall issue vehicle passes for use by the volunteer firemen members of the volunteer fire organization.

b. The vehicle passes shall be for the exclusive use of volunteer firemen members of the volunteer fire organization, while operating a motor vehicle, and are not transferable.

c. The vehicle passes shall not be used for any other purpose than crossing the bridges or ferries for the performance of official firefighting or fire prevention services by volunteer firemen.

d. Lost, stolen or damaged passes will not be replaced.

4. Loss of Privilege. Any prohibited use of vehicle passes issued to a volunteer fire organization will result in the loss of the privilege to obtain and use passes and/or action provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:1975.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 19:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this proposed rule to Alan J. Levasseur, Executive Director, Crescent City Connection, Department of Transportation and Development, Box 6297, New Orleans, LA 70174-6297, phone (504)364-8100.

Jude W.P. Patin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Crescent City Connection Toll Exemptions -
Firemen**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The implementation of this rule which will provide for free trips over the Crescent City Connection bridges and ferries by firemen will cost approximately \$5,000. This amount will cover the printing of passes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will result in a decrease of \$55,500 per year in toll revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Full-time paid firemen will save \$1 per day while commuting to and from work and will save \$1 per trip for all other trips made over the facilities. Volunteer firemen will save \$1 per trip while conducting official business.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed rule will not affect competition or employment.

Jude W.P. Patin
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Transportation and Development
Office of General Counsel
Crescent City Connection Division**

Toll Exemption—Students (LAC 70:I.509)

In accordance with the applicable provisions of the Administrative Procedure Act R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to adopt a rule entitled "Crescent City Connection—Exemption from Tolls—Students," in accordance with Act 345 of 1993 (R.S. 17:157).

Title 70

TRANSPORTATION

Part 1. Office of the General Counsel

Chapter 5. Tolls

§509. Crescent City Connection Exemptions-Students

A. Purpose. In addition to free passage of students in clearly marked school buses as is now provided, any motorized vehicle operated by a student attending a school, which includes universities, colleges, and secondary schools, shall have free passage over the Crescent City Connection bridges, the Gretna/Jackson Avenue ferry, the Algiers/Canal Street ferry, and the Lower Algiers/Chalmette ferry, during the hours of 6 a.m. through 9:30 a.m., and 2:30 p.m. through 9:30 p.m., for traveling to and from school.

B. Application

1. Students who are majors, or in the case of a minor student, the legal parent or guardian, shall apply to the Crescent City Connection Division for each student for each school year, and shall certify as to the following:

- a. the address of the student's domicile;
- b. the address of the school attended by the student;
- c. the student regularly operates a private vehicle to travel to and from school;

d. the geographic location of the school in relation to the student's domicile requires travel across the facilities stated in the above paragraph pertaining to "Purpose".

2. The appropriate school official, the registrar of the college or university attended by the student, or the principal, headmaster, or administrator of the school attended by the student, shall certify on the application as to the enrollment of the student at the school and the length of the school year.

C. Vehicle Passes

1. Upon approval of an application, the Crescent City Connection Division shall issue vehicle passes for use by the student.

2. The vehicle passes shall be for the personal use of the student, while operating a motor vehicle, and are not transferable.

3. The vehicle passes shall not be used for any other purpose than crossing the bridges or ferries for required attendance at school.

4. Lost, stolen, or damaged passes will not be replaced.

D. Loss of Privilege. Any prohibited use of Student Vehicle Passes will result in the loss of the privilege to obtain and use passes and/or actions provided by law.

AUTHORITY NOTE: Promulgated in accordance with Act 345 of the 1993 Session of the Louisiana Legislature, R.S. 17:157(A).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this notice of intent. Such comments should be submitted to Alan J. Levasseur, Executive Director, Crescent City Connection, Department of Transportation and Development, Box 6297, New Orleans, LA 70174-6297, (504) 364-8100.

Jude W. P. Patin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Crescent City Connection Toll Exemption— Students

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will result in an increase in expenditure by state government of \$50,000 for printing tickets and forms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will result in a decrease of \$756,000 in toll revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

The proposed rule will save full time students approximately \$180 per year

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition or employment

Jude W. P. Patin
Secretary

David W Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Transportation and Development Office of the Secretary Public Transportation Section

Tourist Oriented Directional Signs (LAC 70:III.Chapter 2)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to adopt the following rule entitled "Installation of Tourist Orientation Directional Signs", in accordance with the provisions of R.S. 48:461.2.

Title 70

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

Part III. Highways

Chapter 2. Installation of Tourist Oriented Directional Signs (TODS)

§201. Purpose

The purpose of this directive is to establish policies for the installation of Tourist Oriented Directional Signs (TODS) within state highway rights-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:

§203. Definitions

A. Except as defined in this paragraph, the terms used in this directive shall be defined in accordance with the definitions and usage of the Louisiana Manual on Uniform Traffic Control Devices (MUTCD).

1. *Tourist activities*—publicly or privately owned or operated; natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas of national beauty or areas naturally suited for outdoor recreation, as well as all associated business services, deemed to be in the interest of the traveling public, "the major portion of whose income or visitors are derived during the normal business season from motorists not residing in the immediate area of the activity."

2. *Tourist Oriented Directional Signs (TODS)*—official signing located within the State rights-of-way giving specific directional information regarding tourist activities.

3. *Conventional Highway*—any State Maintained highway other than interstate.

4. *Local Road*—any roadway which is not part of the State maintained system.

5. *Department*—all references to "Department" shall be interpreted to mean Louisiana Department of Transportation and Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:

§205. General Eligibility Requirements

A. General. Tourist activities shall be open to all persons regardless of race, color, religion, ancestry, national origin, sex, age or handicap; be neat, clean and pleasing in

appearance; maintained in good repair; and comply with all federal, state, and local regulations for public accommodations concerning health, sanitation, safety, and access.

B. Examples

1. Typical attractions which may qualify as a tourist activity are:

- a. national historical sites, parks, cemeteries, monuments;
- b. state historical sites, parks, monuments; cultural attractions;
- c. aquariums, museums, zoos, planetariums, and arboretums;
- d. lakes and dams, recreational areas, beaches;
- e. Indian sites, historical homes/buildings, gift/souvenir shops.

C. Admission Charges. If general admission is charged, charges shall be clearly displayed so as to be apparent to prospective visitors at the place of entry.

D. Parking. Off-street parking for a minimum of 15 cars, but adequate to handle the demand.

E. Minimum Attendance. Attendance at the attraction will be a factor for signage and will be considered in conjunction with other factors such as intrinsic significance with preference given to facilities with the greatest annual attendance.

F. Hours. Tourist activities shall maintain regular hours and schedules and be open to the public at least five days each week and a minimum of eight months of the year.

G. Illegal Signs. TOD sign applications will not be accepted if the tourist activity has any illegal advertising signs on or along any state highway.

H. Insufficient Space. Preference will always be given to the erection of standard traffic signs (e.g., regulatory, warning, and guide signs) which may preclude the authorization of TODS since a space of 200 feet is required between all signs on conventional roads.

I. On-Premise Sign. The tourist activity shall have on-premise sign identifying the name of the facility. If the attraction's on-premise sign is readily visible from the highway, a TOD sign is not normally required in front of the attraction.

J. Trailblazing. Trailblazing needs will be determined by the department. The activity must provide all trailblazing signs on local roads.

K. Return in Same Direction of Travel. TOD signs will not be authorized for facilities if motorists cannot readily return to the highway in the same direction of travel.

L. Direction to Freeways. TOD signs will not be authorized to direct traffic onto a freeway or expressway.

M. Sign Design. TOD signs will be designed in accordance with Figure No. 1 and as follows:

1. Each sign should have one or two lines of legend. All signs shall have directional arrow with mileage. If the distance to the attraction is over 1/2 mile, the distance to the attraction to the nearest whole mile shall be included below the arrow. The content of the legend shall be limited to the name of the attraction and the directional information. If space exists on the second line, additional directional information may be indicated, e.g., 1/4 mile on left, left on 2nd Street, etc. The maximum number of letters and spaces on a given

line will be about 18. Legends shall not include promotional advertising.

2. The standard sign will be 72" X 18" for conventional roads and 48" x 12" for trailblazers. Letters, numbers, and arrows are to conform to the provisions in the Louisiana Manual on Uniform Traffic Control Devices and detailed drawings in the Standard Highway Signs book.

3. TODS shall have white reflectorized legend and borders on a blue reflectorized background, except that a brown reflectorized background may be used for attraction signs for state and national parks or recreational areas, and for historical sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:

§207. Location and Number of TODS on Conventional Highways

A. General. On conventional highways, TODS may be authorized for eligible attractions, directing motorists from the nearest Arterial Highway from each approach to the attraction for a distance not to exceed 15 road miles.

B. Sign Location. Sign assemblies should be placed far enough in advance of the intersection to allow time for the necessary maneuver. A minimum of 200 feet should be maintained between all signs. (See Figure 2)

C. Maximum Number of Signs. A maximum of six attractions will be authorized for signs on any approach to an intersection.

D. Sign Assemblies

1. TOD signs should normally be installed as independent sign assemblies as follows:

a. Signs shall be installed on one sign assembly with the signs with arrows pointing to the left above those pointing to the right. If any straight ahead arrows are authorized, as in the case where the road turns and the attraction's access is straight ahead, the sign for that attraction shall be installed above any signs for attractions to the left or right.

b. If more than four attractions qualify at a given location priority will be given to the closest attraction. Once an attraction has been signed it has priority over subsequent attractions which are closer.

c. If more than one attraction exists in a given direction, the signs for the closer attraction should be above the more distant attractions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:

§209. Application Procedure

A. Application for TODS shall be submitted to LA DOTD Traffic Engineering and Safety Section.

B. Personnel assigned to this office will review the application and a field check will be made by the District Traffic Operations Engineer to verify information provided and to collect additional data on existing conditions, including whether a location for a TODS exist at the requested intersection and what trailblazing will be necessary.

C. The Louisiana Department of Transportation and Development shall then forward the requests with information to the Louisiana Tourist Development Commission.

D. The Louisiana Tourist Development Commission will determine if the applicant qualifies as a tourist activity and make a report of its finding to the department.

E. If a request is approved, LA DOTD shall:

1. Design the TOD sign and furnish a drawing of it to the applicant with a statement of fabrication and installation charges, and an estimate of the time when installation will occur after payment of the charges. The department will determine the date of an installation, in its sole discretion, based on the conditions at the intersection involved and the availability of resources to install a sign assembly.

2. Collect from the applicant the cost of sign fabrication and installation.

3. The District Traffic Operations Engineer will then check for the necessary trailblazing on local roads. If they are in place and in satisfactory condition, the TOD signs will be installed. If the facility fails to meet qualifications or ceases to exist, their sign will be removed. The field personnel will also have the responsibility to remove TOD signs for seasonal activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:

§211. Fees and Agreements

A. The annual fee and service fee charges for each TOD sign shall be established by the department as stipulated on the permit application. Notification will be given 30 days prior to changes in service fee charges. Publicly operated facilities will be exempted from all fees.

1. The annual renewal date shall be January 1. The permittee will be invoiced for renewal, 30 days prior to the renewal date. The fee shall be remitted by check or money order payable to the Louisiana Department of Transportation and Development. Failure of a business to submit the renewal fee(s) by the annual renewal date shall be cause for removal and disposal of the TOD signs by the department. The initial fee shall be prorated by the department to the annual renewal date to cover the period beginning with the month following the installation of the TOD signs. Service fees will be charged for the removal and reinstallation of delinquent applicants.

2. When requested by the applicant, the department at its convenience may perform additional requested services in connection with changes of the TOD sign, with a service charge per sign. A service fee will be charged for removal and reinstallation of seasonal signs.

3. The department shall not be responsible for damages to TOD signs caused by acts of vandalism, accidents, natural causes (including natural deterioration), etc. requiring repair or replacement. Applicants will be assessed a service charge per sign payable to the department, to replace such damaged sign(s).

4. Tourist attractions requesting placement of TOD signs shall submit to the department a completed application form provided by the department. The required service charges for

fabrication and installation must be submitted prior to commencing work.

5. No TOD sign shall be displayed which, in the opinion of the department, does not conform to department standards, is unsightly, badly faded, or in a substantial state of dilapidation. The department shall remove or replace any such TOD signs as appropriate. Removal shall be performed upon failure to pay any fee or for violation of any provision of these rules.

6. When a TOD sign is removed, it will be taken to the District Office of the district in which the activity is located. The applicant will be notified of such removal and given 30 days in which to pay the fees.

7. Should the department determine that trailblazing to a tourist attraction is desirable, it shall be done with an assembly (or series of assemblies) consisting of signs and an appropriate white on blue arrow, or an acceptable alternate. The department will fabricate the signs at permit cost, and the attraction will be responsible for installing the signal on all local roads.

8. Should an attraction qualify for TOD signs at two locations, the TOD sign(s) will be erected at the nearest location. If the applicant desires signing at the other location also, it may be so signed provided it does not prevent another attraction from being signed.

9. When it comes to the attention of the department that a participating activity is not in compliance with the minimum criteria, the applicant will be notified that it has a maximum of 30 days to correct any deficiencies or its signs will be removed. If the applicant applies for reinstatement, this request will be handled in the same manner as a request from a new applicant.

10. The department reserves the right to cover or remove any or all TOD signs in the conduct of its operations or whenever deemed to be in the best interest of the department or the traveling public without advance notice thereof. The department reserves the right to terminate this program or any portion thereof by furnishing the applicant, a written notice of such intent not less than 30 calendar days prior thereof.

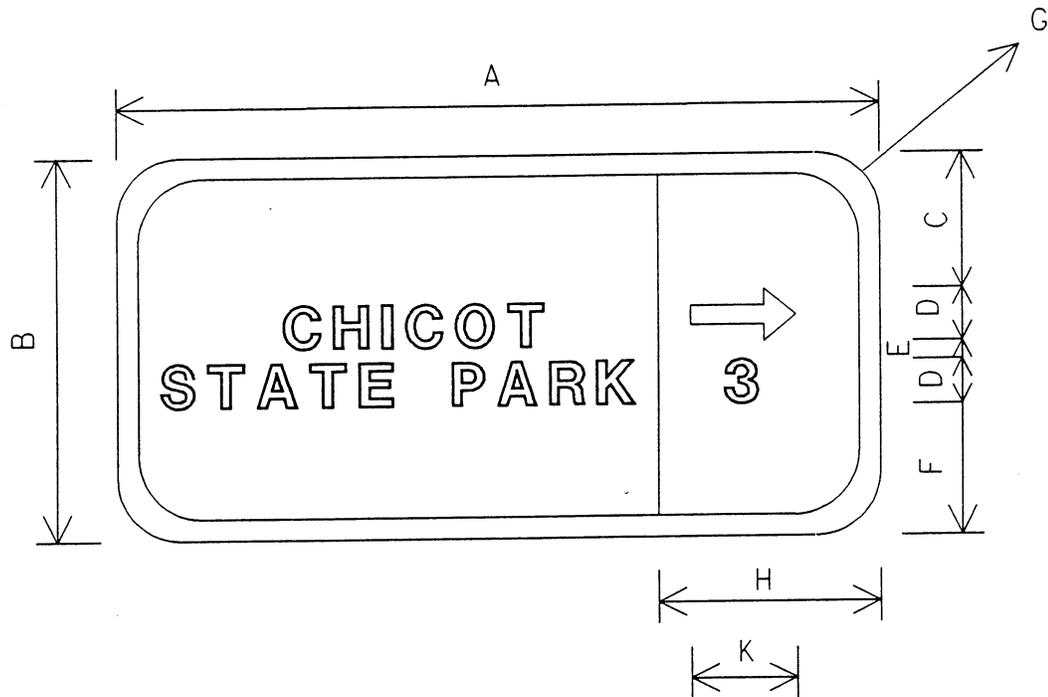
AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:

§213. Other Issuances Affected

All directives, memoranda or instructions issued heretofore that conflict with this rule are hereby rescinded. All existing supplemental guide signs which do not qualify under this rule shall be removed, and replaced with TODS within two years in accordance with these procedures.

Tourist Oriented Directional Signs (TODS)

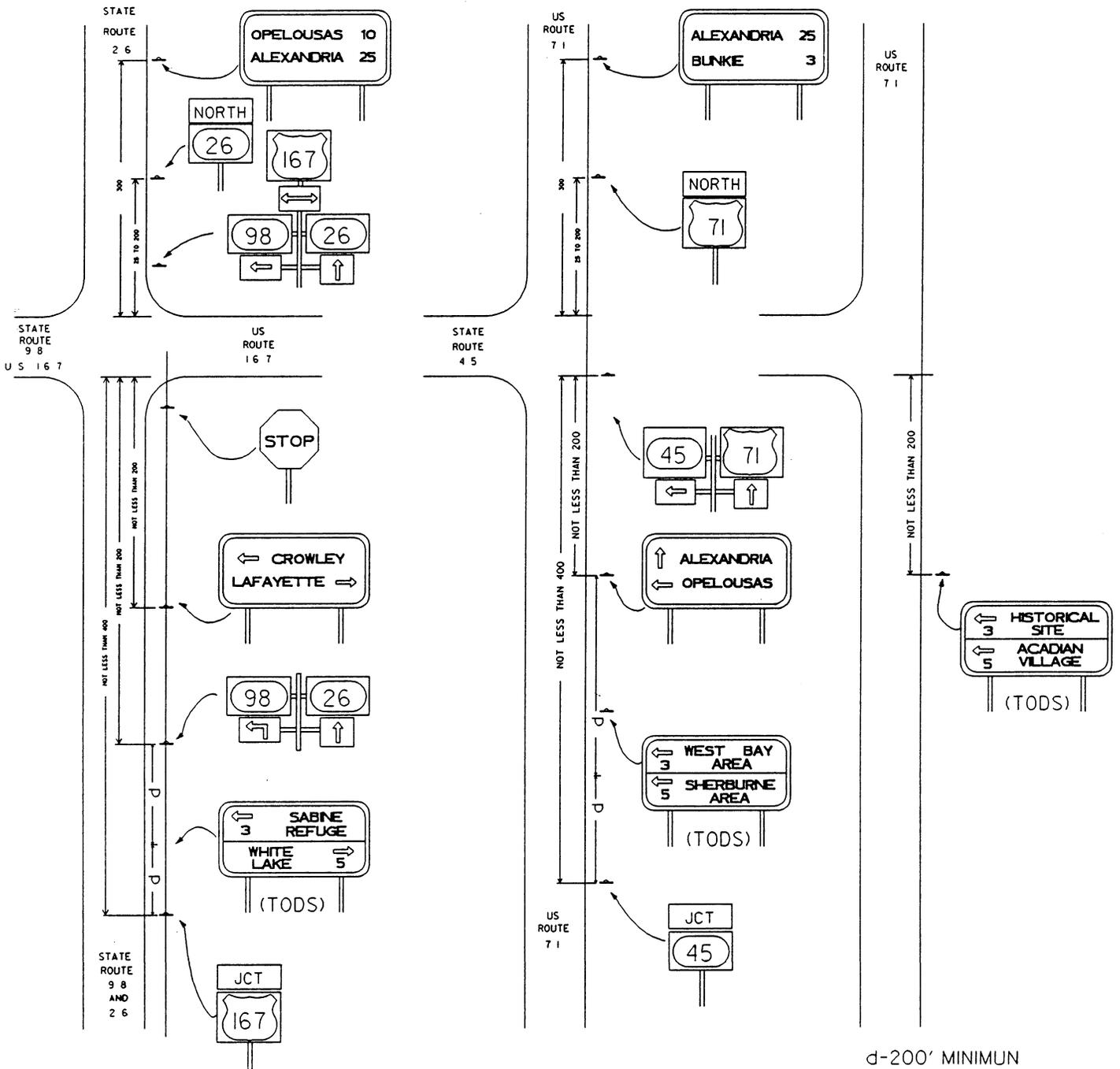


	SIGN SIZE	DIMENSIONS									BORDER
		A	B	C	D	E	F	G	H	K	
Trail Blazer	48X12	48	12	1	4C	1½	1½	1½	8	6	½
ARTERIALS	72X18	72	18	2	6B	2	2	1½	10	8	¾

COLOR: Legend and Border: White
 Background: Blue or Brown

Figure 1

Typical Signing for Conventional Highways



d-200' MINIMUM

TODS - Tourist Oriented Directional Signs

Figure 2

**APPLICATION FOR
TOURIST ORIENTED DIRECTIONAL SIGNS (TODS)**

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Installation of Tourist Oriented
Directional Signs**

Date _____
 Facility Name _____
 Street Address/Highway No. _____
 Nearest Town/Community _____ Parish _____
 Annual Attendance _____
 Operation: Months _____ Days _____ Hours _____
 Description of Attraction (Enclose brochure or pictures) _____

Type of Facility: (Type of qualifying attraction)
 Amusement Park Cemetery Cultural Center
 Educational Center Information Center Wildlife Refuge
 Historical Site Museum Recreation Area
 National/State Park Religious Site Scenic Site
 Zoological Park Botanical Park Other

Please note: (1) A map or sketch showing the location of the attraction and the proposed sign locations must accompany this application. (2) Submit application to LA DOTD, Traffic Engineering and Safety Section, P.O. Box 94245, Baton Rouge, LA. 70804-9245

I understand agree to pay the costs of sign fabrication and installation, as well as, replacement and annual renewal fees if this application is approved.

Cost of typical installation: (Per Sign)

Conventional Highway:	Fab. & Instl.	Annual Fee	Service Fee
Arterial Highway	\$ 75.00	\$ 37.50	\$50.00
Trailblazer	\$ 50.00	\$ 25.00	\$50.00

Applicant Signature: _____
 Name (Print): _____ Date: _____
 Recommended for Approval: Signed: _____
 (District Traffic Operations Engineer) Date: _____
 Recommended for Approval: Signed: _____
 (Tourist Commission) Title: _____
 Date: _____

Approved by: _____
 Title: STATE TRAFFIC ENGINEER Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to: Mr. Chris A. Orillion, Traffic Engineer, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245 or by calling (504) 358-9103.

Jude W. P. Patin
 Secretary

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Transportation and Development will spend approximately \$80,000 to implement the "Tourist Oriented Directional Signs Program." This sum will be offset by annual fees of \$35.50 for Arterial signs and \$25 for Trailblazer signs, and \$50 fees for service of these signs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Approximately \$80,000 will be collected by the Department from fees for signs and the service of signs. Both state and local governmental units should experience increased revenue collections due to increased tourist interest generated by placement of Tourist Oriented Directional Signs. The amount of this increase cannot be estimated at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Facilities which are in the tourism business will be charged an annual fee for their signs. The Louisiana tourism industry will be directly affected with additional revenues produced when tourists utilize the signs. This increase in revenue cannot be anticipated at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment in Louisiana should be affected in a positive way. These signs should increase business related to tourism, thereby increasing competition and employment.

Jude W. P. Patin
 Secretary

David W. Hood
 Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Treasury
 Board of Trustees of the Teachers' Retirement System**

Deferred Retirement Option Plan (DROP)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of the Teachers' Retirement System approved amendments to the policies for implementation of the Deferred Retirement Option Plan to become effective January 1, 1994, as follows:

1. Members of the Teachers' Retirement System of Louisiana (TRSL), in lieu of terminating employment and accepting a retirement allowance, may elect to participate in the Deferred Retirement Option Plan (DROP) in accordance with R.S. 11:786-11:791 when the following eligibility requirements for plan participation are met.

- a. Regular Plan members:
 - 30 years of service credit at any age;
 - 25 years of service credit and at least age 55;

20 years of service credit and at least age 65 (excluding military service); and

10 years of service credit and at least age 60 (excluding military service).

Those members with 10 years of service credit and who are at least age 60 will have retirement benefits calculated using a two percent benefit formula.

b. School Food Service Plan A members:

30 years of service credit at any age;

25 years of service credit and at least age 55; and

10 years of service credit and at least age 60 (excluding military service).

c. School Food Service Plan B members:

30 years of service credit and at least age 55; and

10 years of service credit and at least age 60 (excluding military service).

* * *

2. DROP participation may begin or end any day of the month. The effective date for participation in DROP will be the date a properly executed DROP application, including the designation of a DROP account beneficiary(ies), is filed in the office of TRSL or the stated effective date on the properly executed DROP application, whichever is later. In the event an employer fails to submit the application in a timely fashion the provisions of R.S. 11:761 shall apply.

* * *

5. Participation in DROP may not exceed a period of three consecutive years. In order to participate for the maximum three consecutive years, the member must begin DROP participation within 60 calendar days after the first possible eligibility requirement for participation is met (refer to policy one above). The participation period must end not more than three years and 60 calendar days from the date the member first became eligible to participate. The participation period may only be shortened by the participant's termination of employment or death.

In lieu of a participation period not to exceed the remainder of the three consecutive year period from date of first eligibility, a member who became eligible for DROP on or before January 1, 1994, may, at any time, select a participation period which may not exceed two consecutive years.

6. Retirement benefits shall begin on the first day of the month immediately following termination of DROP in all of the following cases:

a. voluntary termination (the participant, for any reason, elects to withdraw from DROP prior to completing the selected participation period and also terminates employment);

b. involuntary termination (the participant is terminated by the employer prior to completing the selected participation period and is not rehired by another TRSL employer on the following day); and

c. completion of selected DROP participation period and termination of employment except when the DROP participation period is completed on any day other than the last day of any month. In such cases, the DROP account deposit shall be prorated to coincide with the date of completion of DROP participation and termination of employment.

Retirement benefits shall begin the day after completion of the DROP participation period and termination of employment.

* * *

11. When termination of the DROP participation period occurs because of the death of the participant, or if the death of the participant occurs in the absence of an executed Affidavit of Plan Election, the provisions of R.S. 11:783 shall apply.

* * *

Interested persons may comment on the proposed policy amendments in writing to Graig A. Luscombe, Assistant Director, Teachers' Retirement System of Louisiana, Box 94123, Baton Rouge, LA 70804-9123, until 4:30 p.m., November 30, 1993.

James P. Hadley, Jr.

Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Deferred Retirement Option Plan

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Based upon first year implementation of the Deferred Retirement Option Plan (DROP), it is estimated that state and local governmental units will save approximately \$9.7 million each year beginning with 1995-1996 Fiscal Year assuming that the employer contribution rate for the Teachers' Retirement System of Louisiana (TRSL) remains at 16.2 percent. Employers including colleges and universities, local school systems, vocational technical institutes, special schools and the state Department of Education and other state agencies will not be required to remit contributions to TRSL while their employees participate in their third year of DROP. This estimate is based upon the assumption that 1,750 employees participate in DROP for a third year and reflect total savings from state appropriations and local school system funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Assuming that 1,750 employees participate in the third year of DROP, it is estimated that TRSL will earn approximately \$3.7 million from the investment of DROP account deposits made during the third year. These interest earnings will be used to offset the costs of operating the program. Only a small portion, less than \$50,000 each year will be used for program administration and implementation. The remainder will be available to offset any other costs associated with this change in the retirement plan. DROP is an actuarially designed program and has a cost/revenue neutral impact on TRSL.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Employees participating in the program will not be required to remit contributions to TRSL during their third year of DROP participation. Therefore, participants will receive an additional eight percent of gross salary in their individual paychecks.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The amendments to the existing policies governing DROP provide for a third year of participation in the plan. Some may

view this extended participation period as a method for retaining well qualified individuals for an additional year. Others may view the change as one that could limit newly trained professionals from entering the work force. TRSL does not view DROP as having an impact on competition and employment.

James P. Hadley, Jr.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Teachers' Retirement System

Renunciation of Benefit

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of the Teachers' Retirement System approved the following policies concerning the renunciation of benefits as follows:

Any person eligible to receive, or receiving, a benefit from the Teachers' Retirement System of Louisiana (TRSL), may renounce such benefits on the following terms and conditions:

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, TRSL shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall under no circumstances be eligible to receive that benefit.

2. A base benefit may only be renounced in its entirety. If a base benefit is renounced, there shall be no eligibility for later adjustment of benefits of any kind. An adjustment to a base benefit (cost-of-living adjustment or adjustment for inflation) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. A benefit may be renounced before or after payment begins. If the renunciation is after the start of payments, any payments received prior to the effective date of the renunciation are not affected.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to a court order or community property settlement submitted to and approved by TRSL in accordance with R.S. 11:291, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:783(D).

6. If the person making the renunciation is legally separated or divorced, but is not subject to a court order or community property settlement submitted to and approved by TRSL in accordance with R.S. 11:291, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation

cannot affect the joint and survivor beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. A renunciation must be made on a form provided by TRSL, and must be executed before a notary public and two witnesses, neither of whom may be a spouse or presently named beneficiary. The renunciation is effective and irrevocable when received by TRSL, and may not be retroactive.

9. A person revoking or participating in revocation of a benefit must hold TRSL harmless from such action.

10. A revocation may not be used to terminate active participation in TRSL.

11. Amounts credited to a DROP account cannot be renounced.

12. TRSL makes no representation with respect to the effect of a revocation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the revocation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

Interested persons may comment on the proposed policies in writing to Bonita B. Brown, Assistant Director, Teachers' Retirement System of Louisiana, Box 94123, Baton Rouge, LA 70804-9123, until 4:30 p.m., November 30, 1993.

James P. Hadley, Jr.
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Renunciation of Benefits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Teachers' Retirement System of Louisiana (TRSL) will save approximately \$10,000 per year in reduced retirement benefits payable within 10 years after the effective date of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no change in revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Individuals who renounce retirement benefits or cost-of-living adjustments will be able to qualify for or remain eligible for federal/state benefits equal to more than \$20,000 per year per individual.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

James P. Hadley, Jr.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Alligator Harvest (LAC 76:V:701)

The Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission does hereby give notice of its intent to amend the alligator regulations which govern the wild and farm alligator harvest. The alligator industry of Louisiana represents a renewable resource, valuable to the economy providing income to approximately 110 alligator farmers and in excess of 1,900 alligator hunters. The alligator farming program and the annual harvest of surplus wild and nuisance alligators is in keeping with wise wildlife management techniques based upon scientific research conducted by the Department of Wildlife and Fisheries.

The Louisiana Wildlife and Fisheries Commission does hereby authorize and delegate to the Secretary of the Department of Wildlife and Fisheries, the authority to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

C. General Rules

12. There is levied a severance tax of \$.25 on each alligator hide taken from within the state, payable to the state through the Department by the alligator hunter or alligator farmer shipping or taking his own catch out of state, or shipping to an instate taxidermist, or by the dealer shipping skins or hides out of state or tanning alligator skins in Louisiana. Violation of this part is a class 2 violation as described in Title 56.

15. Alligator meat and parts may be shipped in containers that are sealed and the parts identified to the CITES tag of origin. A fully executed alligator hunter, farmer, or parts dealer Alligator Parts Sale or Transaction Form and Shipping Manifest shall meet the U.S. Fish and Wildlife Service parts identification requirements, provided such form(s) is/are prominently attached to the outside of each shipping container. Alligator meat/parts shipped to another state must meet applicable state/federal requirements of the receiving state. Alligator meat/parts exported from the United States must meet the requirements of the U.S. Fish and Wildlife Service as well as those of the receiving country. Alligator skulls being exported shall carry a "tag" containing the CITES tag number and the hunter's name and license number. The skull must also be physically marked with the number of the

original CITES tag used for the hide of the individual alligator. Violation of this part is a class 3 violation as described in Title 56.

D. Licenses, Permits and Fees

3. No person may engage in the business of buying alligators for the purpose of skinning or buying and selling alligator skins unless he has acquired a resident or nonresident fur buyers license. No resident or nonresident fur buyer shall ship furs, alligators, or alligator skins out of state. Violation of this part is a class 3 violation as described in Title 56.

4. No person may engage in the business of buying alligators for the purpose of skinning or buying and selling alligator skins or shipping alligator skins out of state or tanning alligator skins within the state unless he has acquired a resident or nonresident fur dealers license. Violation of this part is a class 3 violation.

11. Every alligator hunter or alligator farmer shipping or transporting his own catch of alligator skins out of state is liable for the alligator hide tag fee and the severance tax thereon, and shall apply for an official out of state shipping tag to be attached to the shipment and shall pay the alligator hide tag fee and the severance tax prior to shipment. Violation of this part is a class 2 violation as described in Title 56.

F. Alligator Hide Tag Procurement and Tagging Requirements

2. Landowners, Land Managers and Hunters - upon application to the Department on forms provided for tag issuance. Applications for alligator tag allotments will be taken annually beginning August 1 and ending 10 days after the season opens. Tags will not be issued after the 10th day following the season opening date.

c. Alligator hide tags shall be issued to licensed alligator hunters without charge. Numbered alligator hide tags shall only be issued in the name of the license holder and are nontransferable. All unused alligator tags shall be returned within 15 days following the close of the season.

3. Alligator farmers - Alligator hide tags shall be issued to properly licensed alligator farmers without charge upon request at any time at least two weeks prior to scheduled harvesting, subject to verification of available stock by Department personnel. All unused alligator tags shall be returned to the Department within 15 days following the last day of the year that issued tags are valid.

G. Open Season, Open Areas, and Quotas

2. The open areas are as follows:

d. The open alligator egg collection season shall include those areas designated by the biological staff of the Department as alligator habitat which can sustain an egg collection harvest and egg quotas will be determined by Department biologists.

* * *

J. Nuisance Alligator Control

* * *

4. Tags will be issued without charge to nuisance alligator hunters. Nuisance alligator hunters will attempt to catch nuisance alligators and relocate to natural habitat selected by the Department. It is unlawful for any nuisance alligator captured alive to be sold or otherwise disposed of on an alligator farm. Alligators and alligator parts taken under these provisions may be retained and sold by the nuisance alligator hunter as any other legally taken wild alligator or alligator part. Violation of this part is a class four violation as described in Title 56.

* * *

K. Report Requirements

* * *

2. Commercial alligator hunters receiving hide tags from the Department are responsible for disposition of all issued tags and must:

a. Complete an official alligator parts transaction form furnished by or approved by the Department for each alligator part transaction. These forms shall be submitted to the Department at the end of the calendar year.

* * *

c. All unused tags must be returned to the Department within 15 days following the close of the season.

* * *

g. The alligator hide tag fee and severance tax shall be collected by the Department from the alligator hunter who is shipping his own alligators or raw alligator skins, or who intends to custom tan, or use for taxidermy, the alligators or raw skins.

* * *

4. Alligator farmers receiving hide tags from the Department are responsible for disposition of all issued tags and must:

a. Complete an official alligator parts transaction form, furnished by or approved by the Department for each alligator parts transaction. These forms shall be submitted to the Department along with the annual report. Violation of this part is a class 2 violation as described in Title 56.

* * *

c. All unused hide tags must be returned to the Department within 15 days following the last day of the year that issued tags are valid. Violation of this part is a class 2 violation as described in Title 56.

* * *

g. The alligator shipping label fee or the alligator hide tag fee and the severance tax shall be collected by the Department from the alligator farmer who is shipping alligators or raw alligator skins, or who intends to custom tan, or use for taxidermy, the alligators or raw skins.

5. Fur buyers, fur dealers, alligator farmers and alligator hunters engaged in the business of buying and/or selling whole alligators or alligator hides must keep within the state a complete record on forms provided by or approved by the Department, all purchases and sales of whole alligators or alligator hides as described in Title 56, and;

a. Every fur buyer, fur dealer, alligator farmer or alligator hunter having undressed alligator hides in his possession shall file with the Department within 60 days of purchase or within 60 days of tagging or prior to shipping out of state or prior to tanning skins in Louisiana, whichever occurs first, a complete report, on forms provided by or approved by the Department, a detailed description of alligator hides to be shipped or tanned. At the time of shipment or prior to tanning, Department personnel will inspect hides and replace any broken or reattached tags. Department personnel will issue the appropriate number of yellow shipping tags, one for each shipment. At that time, Department personnel will affix a seal/or locking device to each container and if container is reopened by anyone other than Department personnel or Federal personnel this action will be considered illegal. In conjunction with the inspection and prior to Department issuance of shipping tag(s) and seal(s) or locking device(s), Department personnel must collect:

* * *

ii. Shipping manifest including each skin in shipment. A fully executed (filled out) shipping manifest containing all information required in the buyer/dealer record may be substituted with Department approval for the buyer/dealer record requirement on farm raised alligator skins.

* * *

iv. Severance tax and alligator hide tag fees owed by alligator hunter, alligator farmer or fur dealer.

* * *

6. Fur dealers engaged in the business of buying and selling alligator hides must maintain complete records of alligator hides purchased inside and outside the state as described in Title 56. Fur dealers in the business of tanning alligator hides must provide a monthly report, on forms provided by or approved by the Department, of all alligator hides being held in inventory. Failure to maintain complete records and to pay the required severance tax and alligator hide tag fees subjects any dealer to the full penalties provided and the immediate revocation of his license by the Department. No license shall be issued to a dealer who has not paid the tax and alligator hide tag fees for the preceding year. Violation of this part is a class 3 violation as described in Title 56.

* * *

P. Exceptions

1. The Department or an authorized representative of the Department may take by any means and possess alligators, alligator eggs, or parts of alligators while in the performance of official duties.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, 259, 261, 262, 263 and 280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), Amended LR 17:892 (September 1991), Amended LR 19:215 (February 1993), amended LR:

The regulations governing the alligator harvest program and the alligator farming program may be viewed at the Wildlife and Fisheries Headquarters, 2000 Quail Drive, Baton Rouge, LA, phone (504) 765-2812.

Interested persons may submit written comments on the proposed regulations to James Manning, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m. Tuesday, November 2, 1993.

Bert H. Jones
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Alligator Harvest**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No cost involved, the Department of Wildlife and Fisheries is adjusting the existing rule to reflect change in Statute (Act 294, 1993).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Additional costs to licensed Fur Dealers of \$4 per tag; alligator farmers and hunters no longer required to pay \$4 tag fee unless they ship direct. Most alligator hides flow through Fur Dealers.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect anticipated.

Fredrick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Commercial Fisherman's Sales Card; Dealer Receipt Form
(LAC 76:VII.201)**

The Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby expresses its intent to amend the full implementation date of the Dealer Receipt Form from July 1, 1992 to January 1, 1995.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 2. General Provisions

§201. Commercial Fisherman's Sales Card; Dealer Receipt Form

* * *

F. Effective date of Subsections A and B of this Section is upon publication in the *Louisiana Register*. Effective date for Subsections C, D and E of this Section will be January 1, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.7.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:81 (January 1992), repromulgated LR 18:198 (February 1992), amended LR 19:

Interested persons may submit written comments on the proposed amendment to the following address before November 1, 1993: Joseph Shepard, programs manager, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Bert H. Jones
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commercial Fisherman's Sales Card;
Dealer Receipt Form**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs for fiscal year 94/95 are expected to be approximately \$514,136. The increase in cost as compared to original cost estimates is due to the delay in implementation.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There should be no effect.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no effect.

Fredrick Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Commercial Fisherman's Sales Report Form
(LAC 76:VII.203)**

The Louisiana Wildlife and Fisheries Commission hereby expresses its intent to amend the full implementation date of the Commercial Fisherman's Sales Report Form from July 1, 1992 to January 1, 1995.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 2. General Provisions

§203. Commercial Fisherman's Sales Report Form

* * *

D. The effective date of this Section is January 1, 1995.
AUTHORITY NOTE: Promulgated in accordance with R.S. 56:345(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:82 (January 1992), repromulgated LR 18:198 (February 1992), amended LR 19:

Interested persons may submit written comments on the proposed amendment to the following address before November 1, 1993: Joseph Shepard, Programs Manager, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Bert H. Jones
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commercial Fisherman's Sales Report Forms**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs for fiscal year 94/95 are expected to be approximately \$10,00 dollars.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There should be no effect.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no effect.

Fredrick Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

COMMITTEE REPORT

COMMITTEE REPORT

**Senate Committee on Transportation,
Highways and Public Works
Oversight Review**

September 3, 1993

On September 2, 1993, the Senate Committee on Transportation, Highways, and Public Works rejected the Rules for the Regulation of Ultralight Aircraft, Testing and Licensing of Pilots of Airports and for Restriction of Use of Ultralight Aircraft in Hazardous Areas as proposed by the Department of Transportation and Development. The

proposed rule, published on page 819 of the June 1993 issue of the *Louisiana Register*, would have repealed Sections 301-307 of Part IX of LAC Title 70. Notice of the committee action has been forwarded to the governor and to the Department of Transportation and Development.

Ron J. Landry
Chairman

POTPOURRI

POTPOURRI

**Department of Agriculture and Forestry
Horticulture Commission**

Landscape Architect Registration Examination

The next Landscape Architect Registration Examination will be given at the College of Design building on the L.S.U. campus, located near the intersection of Fieldhouse Drive and South Campus Drive, Baton Rouge, LA. The deadline for getting in application and fee is October 1, 1993. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be December 6 and 7, 1993.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504)925-7772.

Bob Odom
Commissioner

POTPOURRI

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences**

**Quarantine Listing for Sweetpotato Weevil
(LAC 7:XV.9509)**

**Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Diseases
Chapter 95. Crop Pests and Diseases**

In accordance with LAC 7:XV.9509, we are hereby

publishing a "Supplement to the 1993 Quarantine Listing for Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum.)."

A. In the State of Louisiana

1. The entire parishes of Bienville and Webster.
2. The following area is a non-sweet potato area: those portions of the parish of Caldwell as follows: The property of Meldaise and Lance Arthurs in the Northeast corner of Section 30 and the Northwest corner of Section 29, Township 13 North, Range 4 East; and all properties within a one-mile radius thereof.

The effective date of this quarantine is September 7, 1993.

Bob Odom
Commissioner

POTPOURRI

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

1990 Base Year Reduction Inventory

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Air Quality and Radiation Protection will submit the 1990 Base Year Inventory for the six-parish area including Baton Rouge and Lake Charles. The inventory is prepared under the requirements of the 1990 Clean Air Act Amendments.

Two public hearings will be held. The first will be held at 1:30 p.m. on Friday, October 22, 1993, in Room 326, Maynard Ketcham Building, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana. The second will be held at 9 a.m. on Monday, October 25, 1993, at the Council on Aging Building, 3950 Highway 14, Lake Charles, Louisiana. Should individuals with a disability need an accommodation in order to participate, please contact Annette Sharp at the telephone number or address listed below.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the Inventory. Such comments should be submitted no later than 4:30 p.m., October 26, 1993 to Alice Fredlund, Air Quality Division. Ms. Fredlund may be contacted at (504) 765-0219. Written comments should be mailed to Ms. Fredlund at the following address: Air Quality Division, Box 82135, Baton Rouge, LA, 70884-2135. A copy of the inventory may be viewed at the Air Quality Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet Boulevard, Second Floor, Baton Rouge, Louisiana, the Capital Regional Office, 11720 Airline Highway, Baton Rouge, Louisiana, and the Southwest Regional Office, 3519 Patrick Street, Lake Charles, Louisiana.

James H. Brent, Ph.D.
Administrator

POTPOURRI

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

Inspection and Maintenance Program

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Air Quality and Radiation Protection will submit the State Implementation Plan (SIP) for the Inspection and Maintenance (I/M) Program mandated under the requirements of the 1990 Clean Air Act Amendments.

Any area in the nation designated as serious or above ozone nonattainment and having a 1980 census-defined urbanized area population of 200,000 or more, must implement an enhanced I/M Program.

A public hearing will be held at 9 a.m. on Friday, October 22, 1993, in Room 326, Maynard Ketcham Building, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Annette Sharp at the telephone number or address listed below.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP. Such comments should be submitted no later than 4:30 p.m., October 26, 1993 to Annette Sharp, Air Quality Division. She may be contacted at (504) 765-0219. Written comments should be mailed to Ms. Sharp at the following address: Air Quality Division, Box 82135, Baton Rouge, LA, 70884-2135. A copy of the SIP may be viewed at the Air Quality Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet Boulevard, Second Floor, Baton Rouge, LA., or the Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

James H. Brent, Ph.D.
Administrator

POTPOURRI

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

Volatile Organic Compound (VOC) Reduction Plan

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Air Quality and Radiation Protection will submit the Reasonable Further Progress Plan (RFP) to demonstrate the state's ability to reduce Volatile Organic Compound (VOC) emissions by 15 percent in 1996. The RFP is mandated under the requirements of the 1990 Clean Air Act Amendments.

Any area in the nation designated as serious or above ozone nonattainment must submit a 15 percent VOC Reduction RFP.

A public hearing will be held at 1:30 p.m. on Friday, October 22, 1993, in Room 326, Maynard Ketcham Building, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Annette Sharp at the telephone number or address listed below.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP. Such comments should be submitted no later than 4:30 p.m., October 26, 1993, to Annette Sharp, Air Quality Division. Ms. Sharp may be contacted at (504) 765-0219. Written comments should be mailed to Ms. Sharp at the following address: Air Quality Division, Box 82135, Baton Rouge, LA, 70884-2135. A copy of the RFP may be viewed at the Air Quality Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet Boulevard, Second Floor, Baton Rouge, LA or the Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

James H. Brent, Ph.D.
Administrator

POTPOURRI

Department of Health and Hospitals Office of Public Health Nutrition Section

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)

In accordance with Public Laws 99-500 and 99-591 the Louisiana Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is soliciting comments from the general public on the WIC program's state plan for 1993-94. The plan describes in detail the goals and the planned activities of the WIC program for the next year.

Interested persons may find copies of the state plan at the Central Nutrition/WIC Office (address below) or they may apply directly to the Nutrition/WIC office for copies of the plan at five cents per page. Interested individual should submit their requests for copies or their comments on the plan to the following: State of Louisiana, Department of Health and Hospitals, Office of Public Health, Nutrition Section, Room 406, Box 60630, New Orleans, LA 70160, attention State Plan.

Additional information may be gathered by contacting Henry Klimek (504)568-5065.

Pamela P. McCandless, M.P.H.
Administrator

POTPOURRI

Department of Natural Resources Office of the Secretary

Fishermen's Gear Compensation Fund (July 1993)

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 57 claims in the amount of \$152,436.06 were received in the month of July 1993. Eighteen claims in the amount of \$49,439.15 were paid and one claim was denied.

Loran coordinates of reported underwater obstructions are:

28221	76820	Lafourche
27924	46856	Terrebonne
28706	46867	Plaquemines
28227	46829	Lafourche
28956	46889	Plaquemines
26653	46975	Cameron
26666	46977	Cameron
28035	46841	Terrebonne
28119	46838	Terrebonne
29056	46947	Plaquemines
28628	46868	Plaquemines
28582	46856	Jefferson
28547	46858	Jefferson
28520	46854	Jefferson
28092	46835	Terrebonne
29035	47044	St. Bernard
27954	46950	Terrebonne
47032	28728	Lake Pontchartrain
29130	89594	Jefferson
27924	46856	Terrebonne
28522	46853	Jefferson
28996	47052	St. Tammany
29078	47055	St. Tammany
26625	46976	Cameron
28505	46853	Jefferson

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.

John F. Ales
Secretary

POTPOURRI

Department of Natural Resources Office of the Secretary

Fishermen's Gear Compensation Fund (August 1993)

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 99 claims in the amount of \$266,765.49 were received in the month of August 1993. Forty-three claims in the amount of \$130,039.38 were paid and one claim was denied.

Loran coordinates of reported underwater obstructions are:

28627	46868	Plaquemines
27890	46868	Terrebonne
27922	46852	Terrebonne
28669	46870	Plaquemines
28029	46839	Terrebonne
29002	46926	Plaquemines
28602	46899	Jefferson
29340	47025	St. Bernard
27142	46940	Vermillion
28946	47033	St. Bernard
28903	46968	St. Bernard
28092	46835	Terrebonne
29066	46925	St. Bernard
29047	46902	Plaquemines
27514	46985	Vermillion
27438	46835	Vermillion
29029	90574	Terrebonne
29037	46939	St. Bernard
29397	91542	Vermillion
27930	46861	Terrebonne
28022	46832	Terrebonne
28973	46964	St. Bernard
29042	46912	St. Bernard
26887	46866	Cameron
82055	46843	Terrebonne
27090	47018	Cameron
29071	46928	St. Bernard
26620	46978	Cameron
28351	46831	Lafourche
29018	46935	St. Bernard
27890	46858	Terrebonne
27884	46865	Terrebonne
28935	46887	Plaquemines

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.

John F. Ales
Secretary

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