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EXECUTIVE ORDERS

EXECUTIVE ORDER 94-3

WHEREAS: the people of Louisiana with disabilities have a special need for rehabilitative services and support, and

WHEREAS: the state of Louisiana has a responsibility to provide the support and rehabilitative services required by citizens with special needs, and

WHEREAS: the Federal Rehabilitation Act of 1973 directs the state to establish a State Rehabilitative Advisory Council to administer the State Plan under which vocational rehabilitative services are provided, and

WHEREAS: the state of Louisiana would best serve the vocational rehabilitative needs of its disabled citizens through the coordinated efforts of a State Rehabilitation Advisory Council, and

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 State Rehabilitation Advisory 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 State Rehabilitation Advisory Council shall be to formulate a state plan according to the mandates of the Federal Rehabilitation Act of 1973, as amended; and to monitor, review, and evaluate the implementation of the State Plan.

SECTION 2: The State Rehabilitation Advisory Council shall coordinate activities with the State Independent Living Council established Section 705 of the Federal Rehabilitation Act of 1973, Section 705 as amended.

SECTION 3: The members of the State Rehabilitation Advisory Council 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 representative of the Statewide Independent Living Council established under Section 705 which representative may be the chairperson or other designee of the Council;

(B) at least one representative of a parent training and information center established pursuant to Section 631 (c)(9) of the Individuals with Disabilities Education Act 20 U.S.C. 1431(c)(9);

(C) at least one representative of the Client Assistance Program established under Section 112;

(D) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the council if the counselor is an employee of the designated state agency;

(E) at least one representative of community rehabilitation program service providers;

(F) four representatives of business, industry, and labor;

(G) Representative of disability advocacy groups representing a cross section of:

(i). individuals with physical, cognitive, sensory, and mental disabilities; and

(ii). parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities to represent themselves or are unable to due to their disabilities to represent themselves; and

(H) current or former applicants for, or recipients of, vocational rehabilitation services;

(I) the director of the designated state unit shall be an ex officio member of the council.

SECTION 5: The governor shall designate a member of the council to serve as the chairperson or shall require the Council to so designate such a member.

SECTION 6: (A) Each member of the Council shall serve a term of not more than 3 years, except that -

(i). A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii). The terms of service of the members initially appointed shall be for fewer number of years as will provide for the expiration or terms on a staggered basis.

(B) No member of the council may serve more than two consecutive full terms.

SECTION 7: All departments, commissions, boards, agencies, and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate with the Governor's State Rehabilitation Advisory Council in implementing the provisions of this Executive Order.

SECTION 8: The provisions of this Executive Order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the capitol, in the City of Baton Rouge, on this 1st day of February, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER 94-4

WHEREAS: the spread of the deadly disease known as Acquired Immune Deficiency Syndrome (AIDS) has a devastating affect on Louisiana and its citizens, and

WHEREAS: Louisiana's state public hospitals, physicians, and scientists can play an important role in research and development for the treatment of AIDS; and

WHEREAS: Louisiana will have a state medical facility available for the establishment of a national center for the study of the AIDS virus and other infectious diseases;

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 Task Force for the National Medical and Research Center for the Treatment of AIDS and Infectious Disease 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 Task Force for the National Medical and Research Center for the Treatment of AIDS and Infectious Disease shall be to assist in confecting a specific proposal to be submitted to the federal government for the conversion of Charity Hospital to a National Medical and Research Center for the treatment of AIDS and Infectious Disease.

SECTION 2: The Governor's Task Force for the National Medical and Research Center for the Treatment of AIDS and Infectious Disease shall coordinate the multiple disciplines that will be necessary to arrive at this proposal and to ultimately implement it.

SECTION 3: The members of the Governor's Task Force for the National Medical and Research Center for the Treatment of AIDS and Infectious Disease shall be appointed by and serve at the pleasure of the governor and shall receive no compensation for their services.

SECTION 4: The task force shall consist of community leaders, medical personnel, financial planning experts, and architectural consultants.

SECTION 5: 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 Task Force for the National Medical and Research Center for the Treatment of AIDS and Infectious Disease.

SECTION 6: 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 8th day of February, 1994.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER 94-5

WHEREAS: the chief justice of the Louisiana Supreme Court, the speaker of the House of Representatives, and the president of the Senate have asked that a task force be created and charged with studying and making recommendations for reform of Louisiana's indigent defense system; and

WHEREAS: Louisiana is committed to addressing the problems of crime and criminality, and in ensuring the safety of its citizens; and

WHEREAS: Louisiana is committed to studying and improving its criminal justice system; and

WHEREAS: the prosecution of persons who are charged with committing crimes is governed by federal and state principles of due process and equal protection; and

WHEREAS: the judicial system is becoming overburdened by increasing numbers of serious criminal cases in need of prosecution and timely disposition; and

WHEREAS: Louisiana's system of criminal justice allows the state to impose penalties for serious crimes ranging from imprisonment at hard labor to capital punishment in circumscribed situations; and

WHEREAS: the prosecution of crime in Louisiana can only occur when the judicial system has the resources to conduct trials of persons accused of crime, and when indigent defenders have the resources to adequately defend indigent persons accused of committing crimes; and

WHEREAS: the United States Constitution, the Louisiana Constitution, and federal and state jurisprudence require that indigents accused of crime be provided with effective legal assistance; and

WHEREAS: our constitution requires that the legislature provide "...a uniform system for securing and compensating qualified counsel for indigents"; and

WHEREAS: a number of knowledgeable citizens and experts contend Louisiana's indigent defense system lacks adequate funding and managerial uniformity; and

WHEREAS: legal attacks on Louisiana's indigent defense system have resulted in court decisions which call into question the adequacy and effectiveness of that system; and

WHEREAS: the prosecution of serious criminal cases has been halted in some instances because of inadequate funding and representation; and

WHEREAS: a number of indigent defense counsel throughout Louisiana maintain caseloads far in excess of national standards; and

WHEREAS: making improvements to Louisiana's indigent defense system will reduce the number of expensive and duplicative retrials; and

WHEREAS: the establishment of a task force that would be charged with studying and making recommendations for reform of the indigent defense system would further comprehensive efforts to improve Louisiana's criminal justice system:

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 create and establish the Louisiana Task Force on Indigent Defense, and do hereby order and direct as follows:

SECTION 1: The Louisiana Task Force on Indigent Defense is hereby established.

SECTION 2: The task force shall be composed of 20 members, including a chairperson, appointed in the following fashion:

1. namely: Al Donovan, Executive Counsel to the

Governor; Camille F. Gravel; Victor Bussie; Daniel Juneau; and Leah Guerry;

2. the chief justice of the Louisiana Supreme Court, The Honorable Pascal F. Calogero, Jr., and four members appointed by the chief justice, namely: Second Circuit Court of Appeal Judge Charles A. Marvin; 19th Judicial District Court Judge Bonnie Jackson; Orleans Parish Criminal District Court Judge Calvin Johnson; and Eighth Judicial District Court Judge Douglas H. Allen;

3. the president of the Senate, The Honorable Samuel B. Nunez, Jr., and four members appointed by the president, namely: Senator Donald G. Kelly; Senator Armand J. Brinkhaus; Senator Larry S. Bankston; and Senator Dennis R. Bagneris, Sr.; and

4. five members appointed by the speaker of the House of Representatives, namely: Representative Joseph Accardo, Jr., Representative Audrey A. McCain; Representative Raymond Lalonde; Representative Charles A. Riddle, III; and Representative Steve Windhorst.

SECTION 3: the chief justice of the Louisiana Supreme Court has agreed to and shall serve as chairperson of the task force and the president of the Senate has agreed to and shall serve as co-chairperson of the task force.

SECTION 4: The duties of the task force shall include, but are not limited to:

1. studying and evaluating present inadequacies in Louisiana's provision of indigent defense services;

2. making recommendations to all three branches of state government for reform of the indigent defense system;

3. recommending both short and long term solutions to the problems of providing indigent defense services;

4. making recommendations for immediate, supplemental and long term financing;

5. submitting to the governor a preliminary written report of its findings and recommendations within 90 days of the date of execution of this executive order; and

6. submitting to the governor written reports of its findings and recommendations as the situation warrants, or as requested by the governor.

SECTION 5: The task force is authorized to receive or accept grants, donations, contributions or appropriations from public and private sources and is further authorized to expend any funds made available from these sources to carry out the purpose of the task force.

SECTION 6: All departments, commissions, boards, agencies and officers of the state or any political subdivision thereof are authorized and directed to cooperate with the Louisiana Task Force on Indigent Defense in implementing the provisions of this executive order.

SECTION 7: 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 11th day of February, 1994.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER 94-6

WHEREAS: Louisiana's expansive coastal and inland wetlands provide a variety of economic and environmental benefits to the citizens of our state and nation; and

WHEREAS: important societal benefits and values of the state's wetlands include, among others, their fundamental role in natural flood control, in providing coastal and inland shoreline stabilization, in the recharge of groundwater aquifers, and in filtering and absorbing pollutants that may degrade the water quality of the state's rivers, lakes and estuaries; and

WHEREAS: Louisiana's wetlands support commercial and recreational fishing, hunting and trapping industries worth annually in excess of a billion dollars; and

WHEREAS: Louisiana's wetlands provide essential habitats for the state's diverse and abundant marine, estuarine and freshwater plants and animals, including state and federally listed threatened and endangered species; and

WHEREAS: Louisiana has lost approximately eight million acres of coastal and inland wetlands since statehood; and

WHEREAS: the majority of existing wetlands in Louisiana are privately owned; and

WHEREAS: it is the intent of the state to improve coordination and cooperation among state and federal agencies, user groups and landowners and to establish consistency in wetland protection goals and objectives; and

WHEREAS: the extraordinary values of Louisiana's wetlands and their progressive loss compel the development of a coherent statewide wetlands conservation and management plan; and

WHEREAS: the Coastal Wetlands Planning, Protection and Restoration Act of 1990 (P.L. 101-646) provides funding to pursue the development of a wetlands conservation plan that carries the opportunity to reduce the state's coast share for coastal restoration projects from 25 percent to 15 percent (about $4 million savings/year) upon approval; and

WHEREAS: such a plan should consider various paths including incentives, regulations and acquisitions that might lead to greater protection of the state's critical wetland habitats, including, if prudent, state assumption of federal wetlands jurisdictional authority; and

WHEREAS: the development and implementation of an effective statewide wetlands plan will require a broad-based consensus of stakeholders representing diverse economic and environmental interests;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the state Constitution and laws of the state of Louisiana, do hereby create the Louisiana Statewide Wetlands Advisory Task Force, which shall be domiciled in the Office of the Governor and hereinafter referred to as the Statewide Wetlands Advisory Task Force.

FURTHER, the Statewide Wetlands Advisory Task Force shall aid and assist the state in the development of a statewide Wetlands Conservation Plan that adequately considers diverse environmental and economic interests; and

FURTHER, the Statewide Wetlands Advisory Task Force shall promote the coordination and development of plans for wetlands protection within the lower Mississippi River Valley in conjunction with the seven delta states' wetland initiatives; and

FURTHER, the Statewide Wetlands Advisory Task Force shall assist in providing public input for promoting coordination and development of plans for wetlands protection within the lower Mississippi River Valley in conjunction with the seven delta states' wetland initiatives; and

FURTHER, the Statewide Wetlands Advisory Task Force shall be composed of the following to be appointed by and to serve at the pleasure of the governor and the governor shall select the chairman from the following members:

1. Governor's Office of Coastal Activities
2. secretary of the Department of Natural Resources or his designee
3. secretary of the Department of Wildlife and Fisheries or his designee
4. secretary of the Department of Environmental Quality or his designee
5. a member of the Louisiana Nature Conservancy
6. a member of the Coalition to Restore Coastal Louisiana
7. a representative of the Louisiana Association of Business and Industry
8. LSU Sea Grant Legal Program
9. a representative of the Louisiana Landowners Association
10. a representative of Mid-Continent Oil and Gas Association
11. a member of the Louisiana Wildlife Federation
12. a representative of the Pulp and Paper Association
13. a representative of the Louisiana Farm Bureau Federation
14. a Louisiana Land Owner (Property in Coastal Zone)
15. a Louisiana Land Owner (Property Outside Coastal Zone)
16. a member of the Sierra Club (Delta Chapter)
17. a representative of the Louisiana Soil and Water Conservation Districts
18. LSU Agriculture Center
19. a representative of a National Estuary Program
20. a representative of the Louisiana Municipal Association
21. a member of the Louisiana Police Jury Association
22. a representative of the Louisiana Independent Oil and Gas Association
23. a Local Coastal Zone Management Area Representative
24. three citizens residing in parishes outside the Coastal Zone
25. three citizens residing in parishes wholly or partially in the Coastal Zone
26. three representatives of local or municipal government located in the Coastal Zone
27. three representatives of local or municipal government located outside the Coastal Zone

FURTHER, I hereby invite participation by the appropriate federal natural resource agencies, including the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the National Oceans and Atmospheric Administration and the U.S. Soil Conservation Service to provide assistance to the state in the development and implementation of a statewide Wetlands Conservation Plan.

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 23rd day of February, 1994.

Edwin E. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EMERGENCY RULES

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741—School Administrators Handbook
Honors Curriculum

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 as an emergency rule, an amendment to the State Board of Elementary and Secondary Education Honors Curriculum as printed below. This is also an amendment to Bulletin 741, Louisiana Handbook for School Administrators.

Honors Curriculum

English 4 Units
English I, II, III, IV (No substitutions)

Mathematics 4 Units
Algebra I; Algebra II; Geometry; and one additional unit to be selected from Calculus, Trigonometry, or Advanced Mathematics

Natural Science	3 Units
Biology; Chemistry; and Earth Science or Physics	
Social Studies	3 Units
United States History; World History; and World Geography or Western Civilization	
Free Enterprise	½ Unit
Civics	½ Unit
Fine Arts Survey	1 Unit
Any two units of credit in band, orchestra, choir, dance, art, or drama may be substituted for one unit of Fine Arts Survey	
Foreign Language	2 Units
(In same language)	
Physical Education	2 Units
Computer Science/*Computer Literacy	½ Unit
*Computer Literacy may not be used for incoming freshmen 1994-95 and thereafter.	
Electives	3½ Units
TOTAL	24 Units

Emergency adoption is necessary in order to allow phase-in time for notification of students affected by the change to the Honors Curriculum which the board adopted in September, 1993. Effective date of this emergency rule is February 24, 1994, for 120 days.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 921—8(g) Policy Manual
Teacher Tuition Exemption Program

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted as an emergency rule, an amendment to the billing procedure of the Teacher Tuition Exemption Program for the summer, 1994 session. The Teacher Tuition Exemption Program is funded through the Louisiana Quality Education Support Fund (8g) and is referenced in Bulletin 921, 8(g) Policy and Procedure Manual. This is an amendment to Bulletin 921 as stated below:

Section VII. College and University Procedures

* * *

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. The summer semester generally starts in late May or early June each year. Tuition charges for applicants for tuition exemption participating in the summer semester in which classes begin in May or June must be invoiced in total (one invoice) by the college/university no later than July 10. There will be no split or pro-rated billing for summer. The "End of Semester" report reflecting student drops, failures or incomplete grades will be submitted at the completion of the summer semester. Summer classes starting after June 30 will not be eligible for tuition exemption.

Emergency adoption is necessary in order for the new procedure to go into effect for the summer, 1994 session. Appropriate lead-in time is needed to inform and to assist the universities with its implementation. Effective date of emergency rule is May 1, 1994, for 120 days.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1794—Textbook Adoption Standards

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and re-adopted as an emergency rule the proposed changes in the Textbook Program. This is an amendment to Bulletin 1794, Textbook Adoption Standards and Procedures and was printed in full on pages 594 - 596 in the May 1993 issue of the *Louisiana Register*.

This amendment is being repromulgated as an emergency rule in order to continue the present emergency rule until it is finalized as a rule. The effective date of this emergency rule is December 23, 1993, for 120 days or until the final rule takes effect, whichever occurs first.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

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

Control of Emissions through the Use of Emission Reduction Credits Banking
(LAC 33:III.Chapter 6) (AQ85E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the assistant secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because of the requirements of the Clean Air Act Amendments (CAAA) of 1990 and the impact of the amendments upon the six-parish, ozone-nonattainment area around Baton Rouge. It is necessary for the DEQ to adopt this emergency rule, LAC 33:III.Chapter 6, to support the 15 percent Volatile Organic Compound (VOC) Reduction Reasonable Further Progress Plan in accordance with the 1990 CAAA.

The immediate impact of this rule is to support the Reasonable Further Progress Plan (RFP) which is to be

submitted to the Environmental Protection Agency (EPA).

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 6. Regulations on Control of Emissions Through the Use of Emission Reduction Credits Banking

§601. Background and Purpose

A. Background

1. *Federal Register*, Vol. 51, No. 233, Thursday, December 4, 1986, contained EPA's Emissions Trading Policy Statement; General Principles for Creation, Banking and Use of Emission Reduction Credits. This Policy Statement replaced the original bubble policy (44 FR 71779, December 11, 1979) and describes emissions trading and sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act and applicable federal regulations. Emissions trading includes bubbles, netting, and offsets as well as banking (storage) of emission reduction credits (ERC) for future use. These alternatives do not alter overall air quality requirements; they give states and industry more flexibility to meet those requirements. EPA endorses emissions trading and encourages its sound use by states and industry to help meet the goals of the Clean Air Act more quickly and inexpensively. This regulation does not alter new source review requirements nor exempt owners or operators of stationary sources from compliance with applicable preconstruction permit regulations in accord with 40 CFR 51.18, 51.24, 51.307, 52.21, 52.24, 52.27, and 52.28. Interested parties should, however, be aware that bubble trades are not subject to preconstruction review or regulations where these trades do not involve construction, reconstruction, or modification of source within the meaning of those terms in the regulations listed above.

2. *Federal Register*, Vol. 58, No. 34, Tuesday, February 23, 1993, sets forth proposed Economic Incentive Program (EIP) Rules. Pursuant to sections 182(g)(3), 182(g)(5), 187(d)(3), and 187(g) of the 1990 Clean Air Act Amendments (CAAA), the use of EIPs is mandated for ozone nonattainment areas classified as severe or extreme. It is optional in ozone nonattainment areas classified as marginal, moderate, or serious. EIPs, or ERCs also serve to demonstrate that the state can meet certain emission reduction milestones required in the 15 percent VOC Reduction Reasonable Further Progress (RFP) Plan for Ozone Nonattainment Areas.

3. An Emission Reductions Credits Program has been identified as a contingency measure for Louisiana's 15 percent VOC Reduction RFP Plan.

B. Purpose

1. The purpose of this rule is to implement the provision of the federal Clean Air Act Amendments of 1990 which requires a major new source or major modification which is proposed for construction within a nonattainment area to be offset by emission reductions so that there will be a net improvement of air quality. Additionally, this rule will provide a formal mechanism by which sources can obtain approval for eligible air emission reductions and preserve them as ERCs. The pollutants to which this rule applies are nitrogen oxides (NO_x) and volatile organic compounds (VOC). Interpollutant trading, for example, using a NO_x credit to offset a VOC emission, is not allowed.

2. Act 570 of the 1993 Regular Legislative Session mandates the enactment of rules, by September 1, 1994, that provide for a vehicle scrappage program within the nonattainment area in exchange for emission reduction credits, banking, and trading criteria established by rule.

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

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

§603. Applicability

The only geographical areas in which eligible sources may participate in the emissions banking program are the federally designated ozone nonattainment areas. The following sources are eligible to participate in the emissions banking program for a designated ozone nonattainment area: any stationary point source, any area source, and any mobile source registered in the designated ozone nonattainment area. The rule shall apply to the following pollutants: NO_x and VOC.

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

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

§605. Definitions

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations except as defined within the separate Subchapters or as follows:

Actual Emissions—the actual rate of emissions of an air contaminant from a source operation, equipment, or control apparatus. Actual emissions shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the selected time period. Actual emissions shall be expressed in tons per year. Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

a. emission factors based on EPA's Compilation of Air Pollutant Emission Factors (AP-42) or other emission factors approved by the department, if better source specific data is not available;

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the assistant secretary, Office of Air Quality and Radiation Protection), source tests (only if suitable emission factors are not available), waste disposal records, emission reports previously submitted to the department such as emission inventory reports, SARA Title III, or MACT compliance certifications, and other methods specifically approved by the administrative authority.

Air Contaminant—any substance, other than water or distillates of air, present in the atmosphere as solid particles, liquid particles, vapors, or gases.

Allowable Emission—the rate at which an air contaminant may be emitted into the outdoor atmosphere. This rate shall

be based on the maximum rated capacity of the equipment and 8760 hours per year of operation, unless the equipment is subject to federally enforceable limits which restrict the operating rate, hours of operations, or both. In such cases this rate is based on the most stringent of the following:

a. applicable standards of performance for new stationary sources (NSPS) as set forth in 40 CFR Part 60;

b. applicable national emission standards for hazardous air pollutants (NESHAP) as set forth in 40 CFR Part 61;

c. applicable emission, equipment, and operating standards as set forth in this Chapter, including those with a future compliance date;

d. applicable emission limitations specified in a federally enforceable permit, including limitations (BACT requirements and LAER requirements) with a future compliance date;

e. any emission limitation in an applicable state implementation plan (SIP); and

f. applicable acid rain SO_2 and NO_x control requirements as defined under Title IV of the 1990 Clean Air Act Amendments and subsequent regulations.

Alter—to effect an alteration of equipment or control apparatus.

Alternative Fuel—with respect to any source operation, any fuel whose use is not authorized by any permit or, for a source operation without a permit, any fuel not used in the source operation since December 31, 1976.

Bankable Emission Reductions—emission reductions of pollutants and their precursors for which ambient air quality standards exist and which meet the provisions of this rule. Such reductions may be deposited in the ERC bank. Once banked and certified, the emission reductions become ERCs.

Bank—the repository for ERCs and includes the ERC banking register/database.

Bank Balance Sheet—the form that is completed and submitted along with supporting information to the department to request recognition and certification of potentially bankable emission reductions. A banking application is submitted by the owner(s) of the source creating bankable emission reductions or the owner's designated representative.

Banking—a system for quantifying, recording, storing, and preserving ERCs so that they may be used or transferred for use at a future date.

Banking Register/Database—the document/database that records all ERC deposits, withdrawals, transfers, and transactions.

Baseline—that level of emissions below which any additional reductions may be counted (credited) for use in trades.

Baseline Emission Level—the quantity of emissions during the defined baseline period that is used in calculating ERCs. The baseline emission levels are equal to the actual emissions over the baseline period, but may be some other emission level as authorized by the department and as in accordance with applicable regulations.

Baseline Period—the period of time over which the historical emissions of a source are averaged. This period shall be a time period of at least two consecutive years within the five years immediately preceding the date the emission reduction occurred that is determined by the department to be representative of normal source operation. The baseline period may be determined on either a calendar year or consecutive 12-month or consecutive 365-day basis.

Bubble—an alternative emission control plan where two or more existing emission points are regarded as being placed under a hypothetical dome, which is then regarded as a single emission point. Stationary sources under a bubble may reallocate emission decreases and increases, so long as the net effect results in the same or better ambient air quality and the same or less air emissions. Bubbles need not be confined to a single stationary source. Bubbles must meet all the requirements contained in the Federal Emissions Trading Policy Statement (51 FR 43814, December 4, 1986) or other applicable regulations.

Criteria Pollutant—ozone (O_3), total suspended particulate matter (TSP), sulfur oxides measured as sulfur dioxide (SO_2), nitrogen oxides (NO_x), volatile organic compounds (VOC) measured as nonmethane hydrocarbons, carbon monoxide (CO), or lead (Pb), or any other air contaminant for which national ambient air quality standards have been adopted.

Emissions Averaging—defined in section 112(d) of the 1990 CAAA; involves the reduction of hazardous air pollutants within a facility by at least as much as would otherwise occur if the source were controlled point by point.

Emission Offset—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing facility, which reduction is used to offset the increase in allowable emissions of air contaminants from a new or altered facility.

Emission Reductions—the decreases in emissions associated with a physical change or change in the method of operation at a facility.

Emission Reduction Credit—an emission reduction certified by the administrative authority in accordance with the requirements of the current regulations that represents a decrease in the quantity of a pollutant discharged from a source. To be valid, emission reduction credits must be surplus, enforceable, permanent, and quantifiable.

Emission Reduction Credit Certificate—a document certifying title to a defined quantity and type of ERCs issued by the department to the owner(s) identified on the certificate.

Enforceable—each transaction that revises any emission limit must be approved by the state and be federally enforceable. Means of making emission limits federally enforceable include SIP revisions, EPA-approved generic emissions trading regulations, and permits issued by states under EPA-approved SIP regulations, as well as permits issued by EPA or by states under delegation. ERCs due to trading activities should be incorporated in an enforceable compliance instrument which requires recordkeeping based on the averaging period of the emission limit, so that compliance may easily be determined for any single averaging period.

Equipment—any device capable of causing the emission of an air contaminant into the open air and any stack, chimney, conduit, flue, duct, vent or similar device connected or attached to or serving the equipment.

Facility—the combination of all structures, buildings,

equipment, and other operations located on one or more contiguous or adjacent properties owned or operated by the same person.

Federally Enforceable—as applied to emission reductions, all limitations and conditions which are enforceable by the U. S. EPA administrator, including the following:

a. requirements contained in 40 CFR Parts 60 and 61 (New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants);

b. requirements within any applicable SIP;

c. any requirements contained in permits issued pursuant to 40 CFR 52.21 (Prevention of Significant Deterioration) or comparable state regulation (LAC 33:III.509);

d. any requirement contained in permits issued pursuant to 40 CFR 52.24 (Nonattainment New Source Review) or comparable state regulation (LAC 33:III.504);

e. requirements contained in operating permits issued pursuant to Louisiana permitting programs approved by EPA as meeting the requirements of Title V of the 1990 Clean Air Act Amendments; and

f. requirements contained in a Louisiana regulation, a Louisiana operating permit, or a Louisiana-issued enforcement instrument which is submitted to EPA and approved as a source-specific SIP revision. ERCs must be federally enforceable before they are allowed as banked emissions credits.

Fugitive Emissions—any emissions of an air contaminant into the open air which do not pass through any stack or chimney.

Hazardous Air Pollutant Offset—the use of an ERC, which is equal or greater in quantity, and which is considered to be more hazardous, to compensate for emission increases of a hazardous air pollutant from a source to avoid being considered a modification according to the requirements of section 112(g) of the 1990 CAAA.

Minimum Offset Ratio—the minimum acceptable ratio of emission offsets from an existing facility to increases in allowable emissions from a new or altered facility.

Mobile Emission Reduction Credits (MERCs)—real, quantified emission reductions, approved by the department, that can be used by stationary point sources as emission reductions as authorized by this rule.

Netting—use of an ERC created at an existing facility to compensate for emission increases associated with a proposed modification at the same facility and to, thus, avoid the requirements of new source review. ERCs used for netting are always internal to the source seeking credit.

Nonpermitted Emissions—those emissions of an air pollutant into open air from nonpermitted emission sources that are not required to have air pollution permits. Nonpermitted emissions may include emissions from mobile sources, exempt equipment, and "grandfathered" sources that were never required to be permitted under the state's new source review rule.

Offset—use of an ERC obtained from an existing source or emissions unit to compensate for the increase in emissions from a new or modified source or emissions unit in a nonattainment area in order to ensure that reasonable further progress is maintained. ERCs used for offsetting may be either internal or external to the source seeking credit.

Permanent—a reduction shall be guaranteed through an enforceable permit limitation confirming the amount and duration of the decrease or other enforceable mechanism including, but not limited to, permanently dismantling the emissions unit or surrendering the permit. The department may consider an emission reduction whose quantity varies with time to be permanent by converting it to an annual equivalent emission reduction. Only permanent reductions in emissions can qualify for credit.

Quantifiable—in reference to emission reductions, the amount, rate, and characteristics of the emission reduction can be estimated through a reliable method. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process parameters, production inputs, modeling, or other reasonable measurement practices. The same method of calculating emissions should generally be used to quantify emission levels both before and after the reduction.

Reasonable Further Progress—annual incremental reductions in emissions of a given air pollutant (including substantial reductions in the early years following approval or promulgation of a SIP and regular reductions thereafter) that are sufficient in the judgment of the administrative authority to provide for attainment of the applicable ambient air quality standard within a specified nonattainment area by the attainment date prescribed in the SIP for such area.

Scrapping—the process by which a motor vehicle is permanently removed from service.

Shutdown—the cessation or permanent curtailment of operations or emissions. The date of the emission reduction created by the shutdown is the date of the last actual emissions from the source.

Shutdown Credits—credits resulting from the shutdown of a source.

Stack or Chimney—a flue, pipe, tube, conduit, channel or opening designed and constructed for the purpose of emitting air contaminants into the outdoor air.

Surplus Emission Reductions—emission reductions that are voluntarily created for an emissions unit and have not been required by any local, state, or federal law, regulation, order, or requirement and are in excess of reductions used to demonstrate attainment of federal and state ambient air quality standards.

Transfer—the conveyance of an ERC from one entity to another. All "banking" transactions shall be recorded in the ERC banking register/database and shown as debits and credits for the appropriate entity(ies).

Unpermitted Sources—those sources which emit air pollutants into the ambient air and which are not required to have air permits. Unpermitted sources may include, but are not limited to, mobile sources, area sources, and small sources not required to obtain air permits.

Vehicle Scrappage Program—a program in which old vehicles are scrapped in exchange for MERCs.

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

HISTORICAL NOTE: Promulgated by the Department of

Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§607. Stationary Point Source Emission Reductions

A. Pollutants

1. Reductions in the following types of air emissions are eligible for banking pursuant to this rule:

a. volatile organic compounds (VOCs); and

b. nitrogen oxides (NO_x).

2. The applicant may choose to speciate the pollutants according to individual compounds upon application to bank the ERCs.

B. Eligible Sources. Sources that may create and bank emission reductions include, but are not limited to, the following permitted and unpermitted source types, regardless of the size of the source or the level of emissions:

1. stationary sources, including point sources, fugitive emission sources, and off-shore sources;

2. mobile sources, including on-road and off-road sources and marine vessels; and

3. area and indirect sources, including nonpoint sources and agricultural sources.

C. Acceptable Methods of Creation. Methods of reducing emissions to receive credit under this rule include, but are not limited to the following:

1. enforceable installation of add-on control equipment (an actual emission reduction resulting from the installation of a level of control greater than that which is required by regulation, permit, or SIP provision if the applicant accepts a permit provision specifying a lower level of emissions);

2. enforceable change in process(es);

3. enforceable change in process inputs, formulations, products or product mix, or raw materials (an actual emission reduction resulting from more effective operation and maintenance of abatement and process equipment if the applicant accepts a permit provision specifying a lower level of emission);

4. enforceable reduction in actual emission rate(s);

5. enforceable shutdown of emitting units or facilities (an actual emission reduction resulting from a permanent shutdown of equipment after January 1, 1990, and which causes a loss of capability to produce emissions that were reported in the 1990 or later emissions inventory);

6. enforceable production curtailment(s);

7. enforceable reductions in operating hours;

8. other enforceable methods that might be applicable to eligible source types; and

9. reduction in emissions from area and mobile source types.

D. Timing of the Emission Reduction. In order to be eligible for banking, emission reductions must occur after December 31, 1989. Creditable emission reductions made prior to December 31, 1989, are not eligible for banking and can only be used for netting.

E. Geographic Areas. Each bank is limited to a designated nonattainment area and separate accounts shall be maintained for NO_x and VOCs.

F. Criteria for ERC Approval

1. Emission reductions shall be recognized as ERCs only after the approval of the department has been obtained. The department shall certify emission reductions as ERCs that are determined to be:

a. surplus;

b. permanent;

c. quantifiable; and

d. enforceable.

2. Prior to issuing emission reduction credit certificates in the banking program, the department will make a determination of the total amount of VOC reduction credits that companies wish to bank. Credits to meet the 15 percent VOC Reduction RFP Plan will be removed on a percentage basis, per company, and the balance will be issued as an emission reduction credit certificate. Companies who are late in banking emissions generated from 1990 to the date of issuance of emission reduction credit certificates will be assessed a VOC "penalty" equivalent to the percent of reductions assessed all other companies.

G. Procedures for Calculating the Emission Reduction. The following procedures shall be used in calculating the quantity of creditable air emission reductions:

1. define the baseline period. The applicant shall first determine the two-year baseline period, as defined in LAC 33:III.605, over which the emission reductions are to be calculated;

2. quantify baseline emissions. The baseline emissions shall be calculated by determining the actual emissions during each year of the baseline period. The actual emissions for each year of the baseline period shall be averaged to determine the average baseline emission level;

3. calculate allowable future emissions. The applicant shall calculate the allowable future emissions for the source. The allowable emissions shall be based on the maximum emissions capacity of the source. Physical and operational limitations, including air pollution control equipment, restrictions on hours of operation or the type of material combusted, stored, or processed or other emission restrictions that will be included in an enforceable air permit or applicable rules and regulations shall be considered in calculating the allowable future emissions; and

4. calculate the emission reduction credit. The ERC shall be calculated by subtracting the allowable future emissions from the baseline emission level.

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

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

§609. Area Source Emission Reductions (Reserved)

§611. Mobile Sources Emission Reductions (Reserved)

§613. ERC Bank Balance Sheet Procedures

A. ERC Bank Balance Sheet. The entity requesting an ERC certificate shall submit an ERC bank balance sheet for each applicable pollutant on forms or electronic data format supplied by the department. A single bank balance sheet shall be submitted for each emission reduction activity, which may involve more than one emission unit.

B. Required Information. At a minimum, the bank balance sheet will require company name, physical location, pollutant, date of latest transaction, permit number(s) affected, date of

ERC transaction, date of emissions increase/decrease, ERCs deposited (in tons per year), ERCs relied upon for netting (in tons per year), ERCs used for offsets (in tons per year), and ERCs available for offsets (in tons per year).

C. Netting and Offsets. In order to keep track of all transactions and the ERC balances and to prevent an ERC from being used for both netting and offsets, at a minimum the following procedures shall be followed:

1. each ERC that is created is assigned an item number by the applicant beginning with 1 and continuing in numerical sequence;

2. each transaction is shown on a separate line under the appropriate item number;

3. ERCs that are relied upon for netting are deducted from the balance available for offsets but not from the balance available for netting (since all emission increases and decreases are included in the contemporaneous period); and

4. ERCs that are used for internal or external offsets are deducted from both balances.

D. Documentation of ERCs. Each owner or operator shall submit certifying information for all ERCs deposited in the ERC bank. This shall include at least the following information: permit number, permit issuance date, date of start-up of the emission increase/decrease, actual emissions before the start-up (in tons per year), allowable emissions after the project (in tons per year), emission change for the project, creditable emission increases/decreases (in tons per year), and a brief description of the project. This information shall also be available at the facility, upon request, for inspection by the department.

E. Creditability of Project. For each ERC, each owner or operator shall list the applicable regulation under which emissions were reduced. A description of emissions before project completion must include the following information: baseline period, operating hours per year (average), percentage of operating capacity, and fuel usage. A description of emissions after project completion must include the lower of potential to emit or allowable emissions.

F. Certification. A certifying statement is to be signed by the owners or operators and shall accompany each ERC bank balance sheet that is submitted to attest that the information contained in the balance sheet is true and accurate to the best knowledge of the certifying official. The certification shall include the full name, title, signature, date of signature, and telephone number of the certifying official.

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

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

§615. Schedule for Submitting Applications

A. All bank balance sheets for banking emission reductions where the emission reductions occurred after November 15, 1993, this banking rule shall be submitted within two years after the date the emission reductions occurred.

B. All bank balance sheets for banking emission reductions where the emission reductions occurred prior to November 15, 1993 shall be submitted within six months. Prior to issuing VOC emission reduction credit certificates in the banking program, the department will make a determination of the total amount of VOC reduction credits that companies wish to bank. Credits to meet the 15 percent VOC Reduction RFP Plan will be removed on a percentage basis, per company, and the balance will be issued as an emission reduction credit certificate.

C. Owners or operators with VOC emission reductions not identified through the process described in Subsection B of this Section will be assessed a VOC "penalty" equivalent to the percent of VOC emission reductions assessed all other companies to meet the 15 percent VOC Reduction RFP Plan. A notification of confiscation will be sent by the department at such time that a permit modification or renewal is submitted using "unbanked" VOC emission reductions described in Subsection B of this Section as offsets or for netting purposes.

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

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

§617. Review and Approval of ERC Bank Balance Sheets

A. Determination of a Complete Application. An ERC bank balance sheet shall be deemed complete when the department has determined that sufficient information is available to evaluate the ERC bank balance sheet. The department shall determine whether an ERC application is complete not later than 30 calendar days following receipt of the application, or after a longer time period agreed upon in writing by both the owners or operators and the department. Upon determination that the application is complete, the department shall notify the owner or operator in writing.

B. Submittal of Additional Information. If the department determines that the bank balance sheet is not complete, the owners or operators shall be notified in writing of the decision, specifying the additional information that is required. The owners or operators shall have 90 days to submit the requested information. Upon receipt of all requested information, the department shall have 30 days to determine whether the application is complete. If no data is submitted or the application is still incomplete, the department may cancel the ERC bank balance sheet with written notification to the owners or operators. Upon determination that the application is complete, the department shall notify the owners or operators in writing.

C. Preliminary Decision on the Approval or Disapproval of the Bank Balance Sheet. Upon determining that a bank balance sheet is complete, the department shall have 60 days to perform an initial assessment of the bank balance sheet and render a preliminary decision as to whether to approve or disapprove the ERC. Upon completion of this initial assessment, the department shall provide written notice of such preliminary decision to the owners or operators and the public. The public notice shall include the name and address of the applicant; the proposed quantity and type of emission reductions to be approved or disapproved; an explanation of the department's initial assessment; the opportunity and time periods to submit written public comments concerning the

application; and the name and address of the person to whom public comments and requests for public hearings should be sent. A period of 30 days after the date of publication will be allowed for public comment. The department's preliminary decision relates only to the banking of the emission reductions and not to the use of the ERCs.

D. Owners' or Operators' Comments on Preliminary Decision. Notification to the owners or operators of the initial assessment of the ERC bank balance sheet shall commence a 30-day period during which the applicant may submit written comments to the department on the merits of the department's preliminary decision.

E. Issuance of ERC Certificate. Upon conclusion of the 30 day owners' or operators' comment period provided for, the department shall have 30 days to render a decision as to whether the department approves, conditionally approves, or disapproves the application. This decision shall be promptly delivered in writing by registered mail to the owners or operators. If the department decides to approve the ERC bank balance sheet application, the department shall issue an ERC certificate to the owners or operators. A copy of the ERC certificate shall be retained by the department, and the original shall be delivered to the owners or operators. Delivery by the department of the ERC certificate to an owner or operator shall be accomplished by registered mail. The issued ERC certificate shall be recorded in the banking register/database.

F. Appeals. The owner or operator may appeal the department's decision following provisions specified in R.S. 30:2024.

G. Cancellation of ERC Bank Balance Sheet. Withdrawal of a bank balance sheet by an owner or operator shall result in the cancellation of the bank balance sheet. If an owner or operator resubmits the application, the application shall be treated as a new application, and the review and approval process will start over as if the applicant had submitted the bank balance sheet for the first time.

H. Governing Rules. ERC bank balance sheets shall be reviewed in accord with federal and state rules in effect at the time of the submittal of the ERC bank balance sheet.

I. Request for Recalculation of ERCs. Anytime after the original ERC application is submitted, the applicant may request the recalculation of the ERCs for the purpose of using alternative baseline emissions or an alternative baseline period. The review and approval of this recalculation request shall follow the same schedule as set forth in this Section.

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

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

§619. Registration of Emission Reduction Credit Certificates

A. Banking Register/Database. The department shall maintain a banking register/database that shall consist of a record of all information concerning titles, interest, and other matters such as liens, encumbrances, changes of records, deposits, withdrawals, and transactions, as well as pertinent date(s) concerning such information. All data in the banking register/database shall be available to the public upon request. It is the goal of the department to establish a computerized database which will allow the public to ascertain the amount of reductions which are registered or banked in each designated ozone nonattainment area. In lieu of a computerized database, a paper copy of the amount of reductions that are registered or banked will be available at the department.

B. ERC Certificates. A record of each ERC certificate issued shall be retained by the department. Each ERC certificate shall contain, at minimum:

1. be numbered consecutively;
2. bear the date of issuance;
3. be signed by the assistant secretary of the Office of Air Quality and Radiation Protection;
4. bear the seal of the state;
5. include the owner(s) name(s), address(es), and phone number(s);
6. state the address where the emission reduction occurred;
7. indicate the method of ERC creation; and
8. show the quantity of the ERC and type of pollutant.

C. Multiple ERC Certificates and Multiple Ownership. Single or multiple ERC certificates may be issued. At the owners or operators request, multiple ERC certificates shall be issued for each owner's proportional share.

D. Duplicate Copy of the ERC Certificate. The department may reissue a lost, mutilated, or destroyed ERC certificate after the ERC certificate title bearer vouches that the original has been lost, mutilated, or destroyed. The word Duplicate, will appear on the reissued certificate.

E. Inclusion of ERC Bank in the Emissions Inventory. The department shall be responsible for including the banked ERCs in the current emissions inventory so that the credits are considered to be "in the air" for air quality planning purposes. Any failure by the department to fulfill this responsibility shall not affect the validity of the ERCs in any manner.

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

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

§621. Protection of Banked ERCs

A. ERCs are valid for 10 years from the date of certificate issuance by the department. ERCs can be used for netting only during the contemporaneous period as specified in LAC 33:III.504, but they can be used for internal or external offsets (with the appropriate offset ratio) for their entire life.

B. ERCs may be used by the ERC certificate owners or operators or by any entity to whom the ERC certificate has been transferred, except that the department may reduce the quantity of ERCs under the following circumstances:

1. Adjustments for New Emission Reduction Requirements. If a new or revised state or federal regulation is adopted that will or would have required all or a portion of the emission reductions which comprise the ERC, the statute mandates that portion of the emission reduction covered by the new requirements cannot be considered surplus and therefore

cannot be used as an ERC. The quantity of ERCs shall be adjusted accordingly to account for new and revised emission reduction requirements in effect at the time of submission of the bank balance sheet to withdraw and use the ERCs.

2. Adjustments for Attainment Planning Purposes. The department will maintain a bank balance sufficient to demonstrate reasonable further progress. The department shall confiscate only those ERCs from the bank that are needed for attainment purposes and shall take an equal proportion of ERC quantities from each ERC certificate holder beginning with the credits that are 10 years old and moving to credits that are 9, 8, 7, 6, 5, etc., years old. ERCs which have already been used or applied to a permit (either for netting or offsetting purposes) shall not be reduced in quantity or confiscated under any circumstance.

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

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

§623. Withdrawal, Use, and Transfer of Emission Reduction Credits

A. Withdrawal of ERCs. ERC quantities shall be adjusted at the time of withdrawal for use to account for any rules or regulations which have been adopted or implemented since the date of the ERC application. The ERC owners must submit a written request to withdraw and use the ERCs. The assistant secretary of the Office of Air Quality and Radiation Protection shall have 30 calendar days to review the request. Upon such request to withdraw ERCs from the bank, the department shall be responsible for recalculating the quantity of available ERCs for that entity and for providing that entity with an adjusted bank balance sheet.

B. Use of ERCs. ERCs shall be used in accordance with applicable regulations. ERCs may be used anytime after the issuance of an ERC certificate. After the ERC has been used, the ERC owner shall relinquish title to the ERC, and the banking register shall indicate that the ERC has been used. After an ERC is applied to an air permit or a project or otherwise used, the quantity shall not be changed for any reason. An ERC may be used:

1. to offset increased emissions from new or modified sources in nonattainment or attainment areas in accordance with LAC 33:III.504;

2. for netting under nonattainment new source review or prevention of significant deterioration programs in accordance with LAC 33:III.504 and 509;

3. to establish alternative emission limits; and

4. in another manner deemed appropriate and in accordance with applicable state and federal law.

C. Transfer of ERCs. An ERC certificate may be transferred in whole or in part. The role of the department in the transfer of an ERC certificate shall be limited to providing information to the public, documenting ERC transfers, and registering ERC certificates. The assistant secretary of the Office of Air Quality and Radiation Protection shall be notified within 30 days of any transfer of the credit to another party. The old certificate shall be submitted to the assistant secretary who shall then issue a new certificate within 30 days indicating the new owner. In the case of a partial transfer, the assistant secretary shall issue a new certificate to the new owner as well as a revised certificate within 30 days to the current owner reflecting the available credits to each owner. The original ERC certificate shall be canceled. The banking register/database shall indicate the transfer to the new owner (and reduction of credits when a partial transfer takes place) and the invalidation of the original ERC certificate.

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

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

§625. Application and Processing Fees

All fees shall be assessed in accordance with the provisions of LAC 33:III.Chapter 2.

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

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

Gus Von Bodungen
Assistant Secretary

DECLARATION OF EMERGENCY

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

Fugitive Emission Control for Ozone Nonattainment Areas
(LAC 33:III.2122) (AQ84E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the assistant secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because of the requirements of the Clean Air Act Amendments (CAAA) of 1990 and the impact of the amendments upon the six-parish, ozone-nonattainment area around Baton Rouge. It is necessary for the DEQ to adopt this emergency edit to LAC 33:III.2122, an existing rule, to show compliance with the 15 percent Volatile Organic Compound (VOC) Reduction Reasonable Further Progress Plan in accordance with the 1990 CAAA.

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

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 21. Control of Emission of Organic Compounds
Subchapter A. General
§2122. Fugitive Emission Control for Ozone Nonattainment Areas

A. Applicability

1. This regulation is applicable to each process unit at petroleum refineries, natural gas processing plants, the synthetic organic chemical manufacturing industry (SOCMI), the methyl tertiary butyl ether (MTBE) manufacturing industry, and the polymer manufacturing industry that contains any of the following components that are intended to operate in VOC service 300 hours or more during the calendar year: pumps, compressors, pressure relief devices, open-ended valves or lines, process drains, valves, agitators, and connectors.

2. Where the provisions of this Section are effective, process units to which this Section applies that are also subject to the provisions of LAC 33:III.2121 will not be required to comply with the provisions of LAC 33:III.2121. Process units that are currently being monitored under LAC 33:III.2121 for fugitives shall be subject to the requirements of that rule until January 1, 1995.

3. Components subject to LAC 33:III.5171, Subchapter V, and components that are subject to the Hazardous Organic NESHAP (HON) will not be subject to this Section.

4. The requirements of this Section shall be effective starting January 1, 1995.

5. This Section is applicable to sources in areas classified nonattainment for ozone and designated as moderate, severe, serious, or extreme as defined in the Clean Air Act Amendments of 1990 (Public Law 101-549).

B. Definitions. Terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined below as follows:

Connector—flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of equipment. Welded connections are not connectors.

Good Performance Level—an operating level reached when no more than 2.0 percent of the components in VOC service in a process unit are leaking at the leak rate definition or greater as determined by Reference Method 21, "Determination of Volatile Organic Compound Leaks" (LAC 33:III.6077).

Heavy Liquid Service—equipment that is not in VOC gas/vapor service or is not in VOC light liquid service.

Inaccessible Valve/Connector—a valve/connector that cannot be monitored without elevating the monitoring personnel more than two meters above a permanent support surface.

In Vacuum Service—equipment operating at an internal pressure that is at least 20 inches of water (38 mm of Hg) below ambient pressure.

Light Liquid—a fluid with a vapor pressure greater than 0.3 kPa (0.0435 psia) at 20°C (68°F).

Light Liquid Service—equipment in liquid service contacting a fluid greater than 10 percent by weight light liquid.

Liquid Service—equipment which processes, transfers, or contains a VOC or mixture of VOC in the liquid phase.

Process Unit—a process unit that can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

Process Unit Shutdown—a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be effected. An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours is not a process unit shutdown. An unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start-up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown, is not a process unit shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping production are not process unit shutdowns.

Unrepairable Component—unrepairable components are those designated as requiring a process unit shutdown to repair. The first time an unrepairable component is monitored and detected as leaking it shall be included in the percent leaker calculation. All subsequent calculations of percent leakers shall exclude those unrepairable components which were included in the previous calculation.

C. Fugitive Emission Control Requirements

1. No component shall be allowed to leak volatile organic compounds exceeding an instrument reading of 2,500 ppmv or greater for valves, connectors, pressure relief devices, process drains, and open-ended valves and lines; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators as outlined in Subsection D of this Section, when tested by LAC 33:III.6077. Any regulated component observed leaking by sight, sound, or smell must be repaired according to Subsection C.3 of this Section, regardless of the leak's concentration. This includes flange and connection leaks found per Subsection D.3.b of this Section, pump and compressor seal leaks found during the weekly visual inspections, and any other regulated component found leaking.

2. No valve, except safety pressure relief valves, valves on sample lines, valves on drain lines, and valves that can be removed and replaced without a process unit shutdown, shall be located at the end of a pipe or line containing volatile organic compounds unless the end of such line is sealed with a second valve, a blind flange, a plug, or a cap. Such sealing devices may be removed only when the line is in use, for example, when a sample is being taken. When the line has been used and is subsequently resealed, the upstream valve shall be closed first, followed by the sealing device. When a double block and bleed system is being used for safety reasons, such as burner management practices, the bleed valve or line may remain open-ended during operations that may require venting the line between the block valves.

3. The operator shall make every reasonable effort to

repair a leaking component, as described in this Subsection, within 15 days. If the component cannot be isolated or bypassed so as to significantly reduce or eliminate leakage, or if the repair of a component would require a unit shutdown, and if the shutdown would create more emissions than the repair would eliminate, the repair may be delayed to the next scheduled shutdown. The delay of repair shall not be any later than the next scheduled process unit shutdown. An early unit shutdown may be ordered if leaking component losses become excessive.

4. Percent leaking components at a process unit shall be determined as follows:

$$\% \ C_l = C_l / C_t * 100$$

where:

% C_l = percent of leaking components, where the components are valves or connectors.

C_l = number of components found leaking during the monitoring period minus the number of components which are designated as unrepairable.

C_t = total number of components monitored during the period.

D. Monitoring Requirements. The monitoring of the affected components shall be performed by the following schedule using the method described in Subsection C of this Section or one of the alternate monitoring programs in Subsection E of this Section.

1. Petroleum Refineries, SOCMI, MTBE, and Polymer Manufacturing Industry

a. Monitor with a leak detection device one time per year (annually) the following items:

i. process drains;

ii. connectors in gas or light liquid service; and

iii. open-ended valves and lines.

b. Monitor with a leak detection device four times per year (quarterly) the following items:

i. compressor seals;

ii. pressure relief valves in gas service;

iii. valves in light liquid service;

iv. pumps in light liquid service; and

v. valves in gas service.

c. Monitor pump seals visually 52 times a year (weekly).

2. Natural Gas Processing Plants

a. Monitor pump seals and compressor seals visually 52 times a year (weekly).

b. Monitor with a leak detection device four times a year (quarterly) the following items:

i. pumps, pump and compressor seals;

ii. valves; and

iii. pressure relief valves in gas service.

3. Facilities listed in Subsection D.1 and 2 of this Section

a. Monitor with a leak detection device any pressure relief valve within 24 hours after it has vented to the atmosphere. (For natural gas processing plants an immediate visual evaluation will be made.)

b. Monitor immediately with a leak detection device any component that appears to be leaking on the basis of sight, smell, or sound. In lieu of monitoring, the operator may elect to implement actions as specified in Subsection C of this Section.

c. Inaccessible valves and connectors, valves and connectors that are unsafe to monitor, and check valves (including similar devices not externally actuated). Inaccessible valves should be monitored on an annual basis at a minimum. Unsafe-to-monitor valves should be monitored when conditions would allow these valves to be monitored safely, e.g., during shutdown.

4. Exemptions. Monitoring is not required on the following:

a. components subject to Subsection D.1 of this Section (petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry) which contact a process fluid that contains less than 10 percent VOC by volume or components subject to Subsection D.2 of this Section (natural gas processing plants) which contact a process fluid that contains less than 1.0 percent VOC by weight;

b. components in the petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry that contact only a process liquid containing a VOC having a true vapor pressure equal to or less than 0.3 kPa (0.0435 psia) at 20°C (68°F);

c. pressure relief valves in liquid service at SOCMI and polymer manufacturing industry, except after venting;

d. pressure relief devices, pump seals or packing, and compressor seals or packing that are tied to either a flare header or vapor recovery device;

e. equipment operating under vacuum;

f. natural gas processing plants with less than 40 million cubic feet per day (mmcfd) capacity that do not fractionate natural gas liquids;

g. components contacting organic compounds exempted under LAC 33:III.2117 or mixtures of same with water;

h. pumps and compressors with double mechanical seal;

i. research and development pilot facilities and small facilities with less than 100 valves in gas or liquid service;

j. components that are less than 3/4 inch in diameter;

k. insulated components;

l. any affected facility that has the design capacity to produce less than 1,000 Mg/yr of product;

m. components that have been placed on a shutdown list for repairs are exempt from further monitoring until a repair has been attempted;

n. any reciprocating compressor in a process unit if recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions under Subsection C of this Section.

5. Alternate Monitoring Program. Any facility that already has in place a fugitive emission monitoring program which controls to a higher degree than required under this Section shall be exempted from this Section upon submittal of a description of the program to the administrative authority and approval thereof.

E. Alternate Control Techniques. The monitoring schedule in Subsection D of this Section may be modified as follows:

1. Alternate Standards for Valves and Pumps subject to Subsection D.1.b of this Section - Skip Period Leak Detection and Repair

a. An owner or operator may elect to comply with one of the alternative work practices specified in Subsection E.1.b, c, or g of this Section. However, the administrative authority must be notified in writing before implementing one of the alternative work practices.

b. After two consecutive quarterly leak detection periods with the percent of components leaking equal to or less than 2.0, an owner or operator may begin to skip one of the quarterly leak detection periods for the valves in gas/vapor and light liquid service and pumps in light liquid service.

c. After five consecutive quarterly leak detection periods with the percent of components leaking equal to or less than 2.0, an owner or operator may begin to skip three of the quarterly leak detection periods for the valves in gas/vapor and light liquid service and pumps in light liquid service.

d. If the percent of components leaking is greater than 2.0, the owner or operator shall comply with the requirements as described in Subsection D of this Section but subsequently can again elect to use this Subsection when the requirements are met.

e. The percent of components leaking shall be determined by dividing the sum of components found leaking during current monitoring and components for which repair has been delayed (except for those which have been designated as unrepairable) by the total number of components subject to the requirements of Subsection D of this Section.

f. An owner or operator must keep a record of the percent of valves and pumps found leaking during each leak detection period.

g. Equipment that has been monitored under LAC 33:III.2121 or a New Source Performance Standard for fugitives at the leak definition of 10,000 ppmv can elect to use this alternate standard if the unit has data to indicate the process has met a less than or equal to 2.0 percent leak rate at 2,500 ppmv for the required time period.

2. Alternative Standards for Valves and Pumps - Increased Monitoring Frequency. If there is an excessive number of leaks (greater than the good performance level), then an increase in the frequency of monitoring may be required by the administrative authority.

3. Alternate Standard for Valves - Random 200 Valve Check

a. For process units that have achieved a leak rate of less than or equal to 2.0 percent at 2,500 ppmv for eight consecutive quarters (or two annual periods) a random 200 valve check can be performed. This check shall randomly select 200 valves (or 10 percent, whichever is smaller) in the process unit for checking annually. As long as the percent leak rate for the 200 valves checked is less than or equal to 2.0 percent, the process unit may remain on this reduced monitoring program. If the percent leakers for the 200 valves is greater than 2.0 percent, the unit must comply with the requirements in Subsection D of this Section but subsequently can again elect to use this Subsection when the requirements are met.

b. Equipment that has been monitored under LAC 33:III.2121 or a New Source Performance Standard for fugitives at the leak definition of 10,000 ppmv can elect to use this alternate standard if the unit has data to indicate the process has met a less than or equal to 2.0 percent leak rate at 2,500 ppmv for the required time period.

4. Alternate Standard for Connectors - Skip Periods

a. An owner or operator may elect to comply with one of the alternative work practices specified in Subsection E.4.b, c, or d of this Section. However, the administrative authority must be notified in writing before implementing one of the alternative work practices.

b. After one annual leak detection period with the percent of components leaking equal to or less than 2.0, an owner or operator may begin to skip one of the annual leak detection periods for the connectors in gas/vapor and light liquid service.

c. After two consecutive annual leak detection periods with the percent of components leaking equal to or less than 2.0, an owner or operator may begin to skip three of the annual leak detection periods for the connectors in gas/vapor and light liquid service.

d. Process units may elect to monitor one-fourth of the connectors in a process unit each year instead of all connectors each year. If this option is used, four consecutive annual periods must be completed with the percent of connectors leaking equal to or less than 2.0 to begin the alternate practice in Subsection E.4.b of this Section and eight consecutive annual periods must be completed with the percent of connectors leaking equal to or less than 2.0 to begin the alternate practice in Subsection E.4.c of this Section.

e. If the percent of components leaking is greater than 2.0, the owner or operator shall comply with the requirements as described in Subsection D of this Section but subsequently can again elect to use this Subsection when the requirements are met.

f. The percent of components leaking shall be determined by dividing the sum of components found leaking during current monitoring and components for which repair has been delayed (except for those which have been designated as unrepairable) by the total number of components subject to the requirements of Subsection D of this Section.

g. An owner or operator must keep a record of the percent of connectors found leaking during each leak detection period.

5. Alternative Standards for Connectors - Increased Monitoring Frequency. If there is an excessive number of leaks (greater than the good performance level), then an increase in the frequency of monitoring may be required by the administrative authority.

6. Alternate Standard for Connectors - Random 200 Connector Check. Process units may elect to perform a random 200 connector leak check. This check shall randomly select 200 connectors (or 10 percent, whichever is smaller) in the process unit for checking annually. As long as the percent leak rate for the 200 connectors checked is less than or equal to 2.0 percent, the process unit may remain on this reduced monitoring program. If the percent leakers for the 200 connectors is greater than 2.0 percent, the unit must comply

with the requirements in Subsection D or E.4.d of this Section but subsequently can again elect to use this Subsection if the leak rate is less than or equal to 2.0 percent.

7. Alternate Standard for Batch Processes. As an alternate to complying with the requirements in Subsection D of this Section an owner or operator of a batch process in VOC service may elect to comply with one of the following alternative work practices. The batch product-process equipment shall be tested with a gas using the procedures specified in Subsection E.7.a of this Section or with a liquid as specified in Subsection E.7.b of this Section.

a. The following procedures shall be used to pressure test batch product-process equipment using a gas (e.g., air or nitrogen) to demonstrate compliance.

i. The batch product-process equipment train shall be pressurized with a gas to the operating pressure of the equipment. The equipment shall not be tested at a pressure greater than the pressure setting of the lowest relief valve setting.

ii. Once the test pressure is obtained, the gas source shall be shut off.

iii. The test shall continue for not less than 15 minutes unless it can be determined in a shorter period of time that the allowable rate of pressure drop was exceeded. The pressure in the batch product-process equipment shall be measured after the gas source is shut off and at the end of the test period. The rate of change in pressure in the batch product-process equipment shall be calculated using the following equation:

$$\frac{P}{t} = \frac{(P_f - P_i)}{(t_f - t_i)}$$

where:

P/t = change in pressure, psia/hr.

P_f = final pressure, psia.

P_i = initial pressure, psia.

$t_f - t_i$ = elapsed time, hours.

iv. The pressure shall be measured using a pressure measurement device (gauge, manometer, or equivalent) which has a precision of ± 2.5 millimeters (±0.05 psig) of mercury in the range of test pressure and is capable of measuring pressures up to the relief set pressure of the pressure relief device.

v. A leak is detected if the rate of change in pressure is greater than 6.9 kilopascals (1 psig) in one hour or if there is visible, audible, or olfactory evidence of fluid loss.

b. The following procedures shall be used to pressure test batch product-process equipment using a liquid to demonstrate compliance.

i. The batch product-process equipment train, or section of the train, shall be filled with the test liquid (e.g., water, alcohol). Once the equipment is filled, the liquid source shall be shut off.

ii. The test shall be conducted for a period of at least 60 minutes, unless it can be determined in a shorter period of time that the test is a failure.

iii. Each seal in the equipment being tested shall be inspected for indications of liquid dripping or other indications of fluid loss. If there are any indications of liquids dripping or of fluid loss, a leak is detected.

iv. If a leak is detected, it shall be repaired and the batch product-process equipment shall be retested before VOC's are fed to the equipment.

v. If the batch product-process equipment fails the retest or the second of two consecutive pressure tests, it shall be repaired as soon as practicable, but not later than 30 calendar days after the equipment is placed in VOC service.

F. Recordkeeping

1. When a leak that cannot be repaired on-line and in-place, as described in Subsection C of this Section, is located, a weatherproof and readily visible tag bearing an identification number and the date the leak is located shall be affixed to the leaking component. After the leak is repaired the tag is removed.

2. A survey log shall be maintained by the operator and shall include the following:

a. the name of the process unit where the leaking component is located;

b. the name of the leaking component;

c. the stream identification at the leak;

d. the identification number from the tag required by Subsection F.1 of this Section;

e. the date the leak was located;

f. the date maintenance was performed;

g. the date(s) the component was rechecked after maintenance, as well as the instrument reading(s) upon recheck (For natural gas processing plants the soap bubble test commonly performed in the industry is satisfactory.);

h. a record of leak detection device calibration;

i. a list of leaks not repaired until turnaround;

j. a list of total number of items checked versus the total found leaking.

3. The operator shall retain the survey log for two years after the latter date specified in Subsection F.2 of this Section and make said log available to the administrative authority upon request.

G. Reporting Requirements. The operator of the affected facility shall, after each quarterly monitoring has been performed, submit a report listing all leaks that were located but not repaired within the 15-day limit along with a demonstration of achieving good performance level. These reports are due by the last day of January, April, July, and October. For units complying with the alternate control techniques a report shall be submitted by the last day of the month following the quarter that monitoring was performed. Such reports shall include the following:

1. the name of the unit where the leaking component is located and the date of last unit shutdown;

2. the name of the leaking component;.

3. the stream identification at the leak;

4. the date the leak was located;

5. the date maintenance was attempted;

6. the date the leak will be repaired if the component is awaiting a shutdown;

7. the reason repairs failed or were postponed;

8. the list of items awaiting turnaround for repair;

9. the number of items checked versus the number found leaking;

10. a signed statement attesting to the fact that all other monitoring has been performed as required by the regulations.

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

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

James B. Thompson, III
Assistant Secretary

DECLARATION OF EMERGENCY

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

Mobile Sources (LAC 33:III.Chapter 19) (AQ78E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the assistant secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because of the requirements of the Clean Air Act Amendments (CAAA) of 1990 and the impact of the amendments upon the six-parish, Baton Rouge ozone-nonattainment area. It is necessary for the DEQ to adopt this emergency rule, LAC 33:III.Chapter 19, Subchapter A to comply with requirments of the CAAA of 1990 regarding a mandated enhanced Vehicle Inspection and Maintenance (I/M) Program and to support the reasonable further prograss (RFP) plan revision of the State Implementation Plan (SIP).

The immediate impact is to comply with the requirments of the CAAA of 1990 and to support the RFP SIP revisions submited to the Environmental Protection Agency.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 19. Mobile Sources

Subchapter A. Control of Emissions from Motor Vehicles

§1901. Purpose

It is the purpose of this regulation to establish and implement a program for the control and abatement of motor vehicle emissions from internal combustion engines.

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

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

§1903. Applicability

A. The provisions of this Subchapter shall apply to all motor vehicles, as defined in LAC 33:III.1905, which are:

1. registered or required to be registered in East Baton Rouge Parish;

2. stationed in East Baton Rouge Parish and which display official license plates of the state, federal government, or any political subdivision; or

3. operated on federal installations located within East Baton Rouge Parish.

B. On-road testing provisions of this Subchapter shall apply to motor vehicles as defined in LAC 33:III.1905 which are:

1. registered or required to be registered in the parishes of Ascension, Iberville, Livingston, Pointe Coupee, and West Baton Rouge;

2. stationed in the parishes of Ascension, Iberville, Livingston, Pointe Coupee, and West Baton Rouge and which display official license plates of the state, federal government, or any political subdivision.

C. Fleet vehicles primarily operated in East Baton Rouge Parish are subject to all of the provisions of this Subchapter.

D. Provisions of this Subchapter shall apply to owners or operators of subject vehicles or to any private corporation, person, business, or entity engaged in providing emissions testing services, diagnosing motor vehicle malfunctions, or repairing motor vehicles.

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

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

§1905. Definitions

The terms used in this Subchapter are defined in LAC 33:III.111 of these regulations except as defined as follows:

Algorithm—a mathematical rule or procedure for solving a problem or implementing a process as described in 40 CFR Part 51, Subpart S and 40 CFR Part 85, Subpart W, as applicable.

Certificate of Emissions Control—a serially-numbered, counterfeit-resistant document issued in the form of a vehicle inspection report (VIR) for each motor vehicle inspection.

Consumer Price Index (CPI)—the CPI for any calendar year is the average of the CPI for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending August 31 of each calendar year.

Contractor—any person, business firm, partnership, or corporation with whom the administrative authority may execute an agreement providing for the construction, purchase, lease, renovation, equipment, maintenance, personnel, management, or operations of the official vehicle emissions testing program.

Enhanced Inspection/Maintenance (I/M)—a series of enhanced motor vehicle emissions tests performed at a centralized test-only station to identify cars emitting exhaust levels above acceptable standards. Vehicles are brought into compliance through maintenance (M) and repair.

EPA—United States Environmental Protection Agency.

Exhaust Gas Emissions Standards—the maximum allowable levels of carbon monoxide, hydrocarbons, and oxides of nitrogen appropriate for the age and type of vehicle tested. Refer to the Appendix.

Light-duty Vehicle (LDV)—any vehicle classified as a passenger car or automobile.

Light-duty Truck I (LDTI)—any van or truck with a gross vehicle weight rating (GVWR) less than or equal to 6,000 pounds.

Light-duty Truck II (LDTII)—any van or truck with a gross vehicle weight rating greater than or equal to 6,001 pounds and less than or equal to 8,500 pounds.

Light-duty Truck III (LDTIII)—any van or truck with a gross vehicle weight rating greater than or equal to 8,501 pounds and less than or equal to 10,000 pounds.

Motor Vehicle or Vehicle—any automobile or truck classified as a Light-duty Vehicle, Light-duty Truck I, Light-duty Truck II, or Light-duty Truck III that is required to be registered, except:

a. motorcycles or mopeds;

b. mobile equipment such as road rollers, road graders, farm tractors, unlicensed vehicles on which power shovels are mounted, or such other construction equipment customarily used only on construction sites and that is not practical for the transportation of persons or property upon the highways;

c. fire engines in regular service with a municipal, volunteer, or industrial fire fighting department;

d. vehicles licensed as "antique" pursuant to R.S. 47:463.8;

e. trucks or vehicles licensed with a declared gross weight greater than or equal to 10,001 pounds;

f. vehicles powered only by electricity;

g. vehicles legally classified as golf carts and off-road vehicles; and

h. vehicles displaying apportioned license plates.

New Motor Vehicle—any vehicle being registered for the first time.

On-board Diagnostic Systems (OBD)—systems designed to identify emissions related problems on the vehicle. Required for 1995 and newer model year vehicles.

On-road Testing—the measurement of hydrocarbon (HC) or carbon monoxide (CO) or oxides of nitrogen (NO_x) or carbon dioxide (CO_2) emissions on any road or roadside in the nonattainment area of the I/M program area.

Operator—any individual in control of a vehicle.

Owner—any person holding legal title to or a lease interest in a motor vehicle.

Person—any individual, firm, partnership, joint venture, association, corporation, social club, fraternal organization, estate, trust, receiver, syndicate, any parish, city, municipality, district (for air pollution control or otherwise), or other political subdivision, or any group or combination acting as a unit, and the plural as well as the singular unit.

Recognized Repair Technician—one professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair or possessing nationally recognized certification for emission-related diagnosis and repair.

Remote Sensing Device—equipment consisting of an infrared beam emitter, a detector, and a microprocessor designed to measure on-road vehicle emissions.

Reregistration—the process of titling a previously titled vehicle.

Test or Testing—the use of analyzers and diagnostic equipment as appropriate and the application of techniques, methods, policies, and procedures established or approved by the administrative authority for the purpose of comparing pollutant emission levels in vehicle exhaust to emission standards.

Testing Center—a facility established by the administrative authority or the contractor for the purpose of conducting vehicle emissions tests and inspections.

Year—a calendar year.

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

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

§1907. General Provisions

A. Except as otherwise noted in this Subchapter, all owners of new motor vehicles covered by this Subchapter shall receive initial testing, meet standards of performance, and receive a certificate of compliance, waiver, or adjustment prior to the second registration renewal of the motor vehicle.

1. Thereafter, a certificate of compliance, waiver, or adjustment shall be obtained biennially (every two years) for all motor vehicles subject to requirements of this Subchapter;

2. Vehicles must receive a valid certificate of compliance, waiver, or adjustment not more than 90 days prior to the vehicle registration renewal date.

3. Any person owning or operating any motor vehicle that is exempt from registration renewal, and is otherwise subject to this Subchapter, shall obtain a biennial certificate of compliance, waiver, or adjustment for the vehicle. Such vehicles shall receive their initial tests in May, according to the following schedule:

a. odd numbered model year vehicles shall test in odd numbered years; and

b. even numbered model year vehicles shall test in even numbered years.

B. Previously titled motor vehicles must receive a valid certificate of compliance, waiver or adjustment not more than 90 days prior to reregistration unless otherwise provided in Subsection C of this Section. Thereafter, a certificate of compliance, waiver, or adjustment shall be obtained biennially for all motor vehicles subject to the requirements of this Subchapter.

C. Previously titled motor vehicles purchased from a licensed motor vehicle dealer which are no older than four model years, as determined by the manufacturer's model year designation, shall not require a certificate of compliance, waiver or adjustment in accordance with Subsection B.1 of this Section provided:

1. the motor vehicle dealer, at the time of purchase, provides the purchaser with a written statement that states the emissions equipment on the motor vehicle was operating in accordance with the manufacturer's and distributor's warranty at the time of resale;

2. the purchaser submits the vehicle and the aforementioned dealer statement to a testing center for verification.

D. Vehicles shall become subject to on-road testing provisions of this Subchapter upon reregistration or upon registration renewal, whichever occurs first with the exception of previously titled vehicles registered in accordance with LAC 33:III.1907.C. Such vehicles shall become subject to on-road testing one year after reregistration.

E. A valid registration sticker must be displayed at all times on the vehicle license plate as a visible demonstration of compliance with this Subchapter.

F. The administrative authority shall notify owners that subject vehicles must be tested prior to registration renewal. Written notification shall be mailed approximately 90 days prior to the vehicle registration date to allow time for compliance. Failure of an owner to receive a notification for testing shall in no way abridge or eliminate the responsibility of the owner to comply with the provisions of this Subchapter.

G. In order to receive a certificate of compliance, waiver, or adjustment, an owner or operator must demonstrate compliance with any emissions-related manufacturer's recall for the vehicle requiring a certificate of emissions control.

H. For purposes other than compliance with this Subchapter, a vehicle may be tested at any testing center provided that the applicable test fee is paid.

I. Upon reasonable notice by the administrative authority, an emissions testing center shall make available the use of its inspection facility and equipment for the purpose of verifying the results of an inspection or reinspection of a motor vehicle.

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

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

§1909. Standards of Performance

A. Exhaust Emission Standards. Vehicles shall be tested for exhaust gas emission levels of carbon monoxide, carbon dioxide, hydrocarbons, and oxides of nitrogen. To pass the test and receive a certificate of compliance, a vehicle's emissions must not exceed the standards set in the Appendix based on registration information for vehicle type, model year, and weight.

B. Evaporative System Integrity Standards

1. Purge Test. To pass an evaporative system purge test as described in LAC 33:III.1911.B.3, a vehicle must demonstrate a purge flow during the IM240 test of greater than one liter.

2. Pressure Test. To pass an evaporative system pressure test as described in LAC 33:III.1911.B.4, a vehicle must show a pressure drop of less than two inches of water two minutes after the system is pressured to eight inches of water.

C. Fast-Pass/Fast-Fail Procedures. Fast-pass or fast-fail procedures may be used as approved by the administrative authority.

D. Rejection for Cause. If the vehicle, vehicle contents, load, passengers, or operator causes or has the appearance of causing an unsafe testing condition at the center, the test shall not be performed until the condition is determined to be safe or is corrected. The vehicle may be rejected from the center without receiving a test. Such conditions include, but are not limited to, leaking or missing exhaust systems.

E. Visual Inspection. To pass the visual emissions device check, which includes checks for the catalytic converter and fuel inlet restrictor as applicable, such devices shall be present, in operable condition, properly connected, and the proper type for the certified vehicle configuration.

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

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

§1911. Emissions Testing Procedures

Detailed test methodology may be found in 40 CFR Part 51, Subpart S; 40 CFR Part 85, Subpart W, as applicable; or as otherwise noted in this Subchapter.

A. Testing Procedure - All Vehicles

1. Tests shall be performed without emissions related repair or adjustment at the testing center prior to the test, except that the gas cap shall be checked to ensure that it is properly, but not excessively, tightened and shall be tightened if necessary.

2. The vehicle owner or operator shall have access to the test area such that observation of the entire official inspection process on the vehicle is permitted. Such access may be limited, but shall in no way prevent full observation.

3. An official test, once initiated, shall be performed in its entirety regardless of intermediate outcomes except in the case of invalid test conditions, unsafe conditions, or fast-pass/fast-fail algorithms.

4. Tests involving measurements shall be performed with program-approved equipment that has been calibrated according to the quality control procedures established by the administrative authority.

5. Dual-fuel vehicles must be tested on the fuel of operation at the time the vehicle is presented for the emissions test.

6. In the inspection process, vehicles that have been altered from their original certified configuration are to be tested according to the standards for the chassis model year. The standards for the engine model year may be used if the engine model is newer than the chassis.

B. Testing Procedure - By Vehicle Type

1. Transient IM240 Test Procedure (1981 and newer model year vehicles without full-time four-wheel drive)

a. The test shall measure vehicle exhaust gas emissions in grams per mile for carbon monoxide, carbon dioxide, hydrocarbons, and oxides of nitrogen.

b. The transient emissions test shall consist of 240 seconds of mass emissions measurement using a Constant Volume Sampler while the vehicle is driven through a computer-monitored driving cycle on a dynamometer with inertial weight settings appropriate for the weight of the vehicle.

c. The vehicle shall be tested according to the IM240 transient driving cycle or alternatives to IM240 testing approved by EPA and the administrative authority.

2. Steady State Test Procedure (1980 and older model year vehicles and 1981 and newer model year vehicles equipped with full-time four-wheel drive)

a. The test shall measure vehicle exhaust gas emissions in terms of concentrations for carbon monoxide, carbon dioxide, and hydrocarbons.

b. With the engine operating at idle speed and transmission in neutral or park, as may be specified by the administrative authority, the sampling probe of the gas analytical system shall be inserted into the tail pipe.

c. Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the administrative authority.

3. Evaporative System Purge Test Procedure. All vehicles subject to IM240 transient emissions test are subject to the evaporative system purge test.

a. The purge test procedure shall consist of measuring the total purge flow (in standard liters) occurring in the vehicle's evaporative system during the transient dynamometer emissions test specified in Subsection B.1.b of this Section.

b. Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the administrative authority.

4. Evaporative System Pressure Test Procedure (all vehicles equipped with charcoal canisters)

a. Test equipment shall be connected to the fuel tank canister hose at the canister end. The gas cap shall be checked to ensure that it is properly, but not excessively, tightened and shall be tightened if necessary.

b. The system shall be pressurized to 14 $\pm$0.5 inches of water without exceeding 26 inches of water system pressure.

c. Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the administrative authority.

C. Retesting Procedure - All Vehicles

1. Vehicles which fail any portion of the emissions test shall have necessary maintenance and repairs performed as a prerequisite for a retest. Vehicles which are brought to a testing center within 30 days after failing a test will be given one free retest. If any subsequent inspections are required for that test cycle a new initial test fee (which includes one free retest) shall be charged.

2. A vehicle repair form (VRF) completed following the most recent emissions test shall be a prerequisite for a retest or subsequent initial emissions inspection. It shall indicate which repairs were actually performed, as well as any technician recommended repairs that were not performed, and an identification of the facility that performed the repairs. Identification on the VRF shall include, at a minimum, the technician's signature and printed name, the printed repair facility's name (if applicable), federal employer identification number (EIN) and Louisiana state tax number, the repair date, and business telephone number.

3. Repairs of failed vehicles by persons who are not recognized repair technicians are permitted; however, the cost of such repairs shall not be counted toward a certificate of waiver for any 1980 or newer model vehicle.

4. Following repair, vehicles shall be retested for any portion of the inspection that was failed on the previous test to determine if repairs were effective. To the extent that repair to correct a previous failure could lead to failure of another portion of the test, that portion shall also be retested.

a. An exhaust emissions test shall be required after evaporative system repairs.

b. A vehicle which fails one or more of the standards for HC, CO, or NO_x must pass all three standards on the retest.

5. Available emissions control system warranty repairs and tampering related repairs must be obtained in accordance with LAC 33:III.1917.B.3 and 4.

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

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

§1913. On-road Testing

A. On-road testing is to be part of the emissions testing program as a complement to testing otherwise required in LAC 33:III.1911.

B. On-road testing may be performed using remote sensing equipment or other equipment approved by the administrative authority or roadside pullovers including tailpipe emission testing. Vehicles shall be measured for exhaust gas emission levels of carbon monoxide, hydrocarbons, and oxides of nitrogen. The established exhaust emission standards can be found in the Appendix.

C. Subject vehicles which are found to exceed the established on-road emission standards for the same pollutant on two different occurrences within 90 days will be considered to appear to be exceeding the applicable exhaust emission standards. The owners or operators of such vehicles will be notified of this apparent failure and required to present the vehicle for initial testing, and payment thereof, within 30 days. Such vehicles will be required to comply with the provisions of this Subchapter. Vehicles not subject to biennial testing shall not become subject to biennial testing as a result of on-road testing requirements.

D. Vehicles which received a certificate of waiver or adjustment shall be exempt from the requirements of this Section for the duration of that certificate.

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

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

§1915. Certificate of Emissions Control

A serially-numbered, counterfeit-resistant document in the form of a vehicle inspection report (VIR) shall be issued for each motor vehicle inspection. The VIR contains at a minimum: vehicle information, inspection results, an emissions validation tab, and a vehicle repair form (VRF).

A. Certificate Types. Depending on the results of each inspection, the certificate of emissions control will be completed in one of four ways:

1. C - certificate of compliance
2. F - certificate of failure

3. W - certificate of waiver

4. A - certificate of adjustment

B. Vehicle Repair Form (VRF). The vehicle repair form (VRF) shall be completed by the vehicle emissions repair technician and returned to the test personnel at the time of the retest. The owner or operator will present the vehicle repair form with the appropriate repair documentation attached, including the receipts, work orders, etc. for repairs including parts and labor based on the flat rate manual.

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

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

§1917. Certificates of Waiver

A. The administrative authority may allow the issuance of a certificate of waiver. A certificate of waiver is a type of compliance that allows a motorist to comply with program requirements without meeting the applicable test standards, as long as prescribed criteria are met. Certificates of waiver must be issued by the administrative authority or its representative.

B. The following criteria establish the basis for a certificate of waiver:

1. A certificate of waiver may be issued after a vehicle has failed a retest. No such certificate of waiver may be granted unless qualified repairs have been completed. The validity of a certificate of waiver shall not exceed the period of inspection frequency or two years, whichever is less.

2. Emissions-related repairs performed prior to an initial test shall not be eligible to apply toward a certificate of waiver.

3. Any available emissions control system warranty coverage shall be used to obtain needed repairs before repair expenditures can be counted toward the cost limits in Subsection B.7 of this Section. The operator of a vehicle within the statutory age and mileage coverage under section 207(b) of the Clean Air Act shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived.

4. The cost of tampering-related repairs shall not be applicable to the minimum expenditure in Subsection B.7 of this Section. The administrative authority may exempt tampering-related repairs if the owner or operator can verify that the part in question or one similar to it is no longer available or safe.

5. Repairs shall be appropriate to the cause of the test failure. A visual check shall be made where appropriate to determine if repairs were actually performed. Receipts shall be submitted to the administrative authority for review to verify that qualifying repairs were performed.

6. Repairs shall be performed by a recognized repair technician in order to qualify for a certificate of waiver. The administrative authority may allow repairs performed by nontechnicians (e.g., owners) to apply toward the waiver limit for pre-1980 model year vehicles.

7. The owner or operator shall make an expenditure of at least $450, adjusted annually according to the Consumer Price Index (CPI) for repairs directly related to the cause of the test failure in order to qualify for a certificate of waiver. The administrative authority shall adjust the $450 minimum expenditure each January 1, by the percentage, if any, by which the CPI for the preceding calendar year differs from the CPI for 1989.

8. The administrative authority may establish lower minimum expenditure limits if a program is implemented to scrap vehicles that do not meet standards after the lower expenditure is made.

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

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

§1919. Compliance via Diagnostic Inspection

Vehicles subject to a transient IM240 emissions test may be issued a certificate of adjustment if, after failing a retest on emissions, a complete, documented physical and functional diagnosis and inspection performed by the administrative authority or its representative shows that no additional emission-related repairs which may produce further reductions in exhaust emissions are needed. Motorists requesting a diagnostic inspection shall be required to pay all costs of the inspection in full.

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

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

§1921. Vehicles Unavailable for Testing

Vehicles registered in the East Baton Rouge program area that are stationed outside the program area and cannot be easily returned for inspection when registration renewal is due must present proof of such stationing (military orders, school registration, or other acceptable documentation) to the administrative authority. If the vehicle is stationed in another enhanced inspection/maintenance (I/M) program area, a reciprocal emissions test is required such that the vehicle complies with the requirements of that area. If the vehicle is not stationed in a program area, the owner may apply for a time extension for renewal. The administrative authority may grant such a time extension, to expire 30 days after the vehicle's return to the program area.

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

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

§1923. Emissions Repair Technician Training

A. The administrative authority shall ensure that adequate repair technician training is available, either through private or public facilities.

B. The training available shall consist of, at a minimum:

1. diagnosis and repair of malfunctions in computer controlled, close-loop vehicles;

2. application of emissions control theory and diagnostic data to the diagnosis and repair of failures to the transient emissions test and evaporative system functional checks;

3. utilization of diagnostic information on systematic or repeated failures observed in the transient emissions test and evaporative system functional checks;

4. general training on the subsystems related to engine emissions control.

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

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

§1925. Certified Inspection Personnel Requirements

A. Training

1. For the purpose of compliance with this Subchapter, all inspectors engaged in the emissions testing of motor vehicles must successfully complete a certification training course, approved by the administrative authority. At a minimum, inspector training shall include the following:

a. the air pollution problem, its causes and effects;

b. the purpose, function, and goal of the inspection program;

c. inspection regulations and procedures;

d. technical details of the test procedures and the rationale for their design;

e. emissions control device function, configuration, and inspection;

f. test equipment operation, calibration, and maintenance;

g. quality control procedures and their purpose;

h. public relations; and

i. safety and health issues related to the inspection process.

2. Inspector certificates shall be valid for no more than two years, at which time a refresher training and testing shall be required prior to renewal.

B. Identification. Whenever testing personnel are on duty and in contact with the public, they shall wear identification tags visible to the public or other identification approved by the administrative authority. It shall be a violation of this Subchapter for a noncertified person to conduct inspections.

C. Inspector Performance

1. Contractors shall be held responsible for the performance of inspectors in the course of duty.

2. At no time during the emissions inspection sequence shall an inspector attempt or allow adjustments to be performed on the vehicle being inspected except for gas cap adjustments necessary to perform purge and pressure testing.

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

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

§1927. Test Fees and Surcharges

A. A fee shall be collected by the administrative authority or its representative for the initial test. If the vehicle fails the initial test, one free retest shall be provided, in accordance with LAC 33.III.1911.C.1. If any subsequent inspections are required, a new initial test fee (which includes one free retest) shall be charged.

B. All state administrative portions of the vehicle test fee shall be paid to the administrative authority on a monthly basis no later than the 15th day of each month.

C. The administrative authority shall have the right to audit the contractor's records and procedures to substantiate that the contractor is properly collecting and accounting for test fees and surcharges.

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

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

§1929. Quality Assurance/Quality Control

A. Quality Assurance. An ongoing quality assurance program shall be implemented by the administrative authority to determine whether procedures are being followed, whether equipment is measuring accurately, and whether other problems might exist which would impede program performance.

1. Performance Audits. Performance audits shall be conducted on a regular basis to determine whether inspectors are correctly performing all tests and other required functions. Performance audits may be either overt or covert.

2. Record Audits. Station and inspector records shall be reviewed or screened at least monthly to assess station performance and identify problems that may indicate potential fraud or incompetence.

3. Equipment Audits. During overt site visits, auditors shall conduct quality control evaluations of the required test equipment.

4. Auditor Training. Auditors shall be formally trained and knowledgeable in:

a. the use of analyzers;

b. program rules and regulations;

c. the basics of air pollution control;

d. basic principles of motor vehicle engine repair, related to emission performance;

e. emissions control systems;

f. evidence gathering;

g. state administrative procedures laws;

h. quality assurance practices; and

i. covert audit procedures.

B. Quality Control

1. Quality control measures shall be implemented by the contractor to ensure that emission measurement equipment is calibrated and maintained properly and that inspection, calibration records, and control charts are accurately created and maintained.

2. All test equipment shall, at a minimum, be calibrated according to the procedures and schedules specified in 40 CFR Part 51, Subpart S; 40 CFR Part 85, Subpart W; and as recommended by the manufacturer.

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

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

§1931. Public Information and Consumer Protection

A. Consumer Protection

1. Motorists shall be provided with software generated interpretive diagnostic information based on the particular portions of the test that were failed.

2. The administrative authority shall institute procedures and mechanisms to protect the public from fraud and abuse by inspectors, mechanics, and others involved in the I/M

program. This shall include mechanisms for protecting whistle blowers and for following up on complaints. It shall also include a program to assist owners in obtaining warranty covered repairs for eligible vehicles that fail a test.

3. The administrative authority shall institute a challenge mechanism by which a vehicle owner can contest the results of an inspection. The challenge mechanism shall, at a minimum, allow for the availability of a lane at the inspection facility for motorists to challenge their test results. If a challenge test is failed, the test will count as either a retest for that vehicle or the test fee will be charged. No test fee will be charged if the test is passed, and a certificate of compliance shall be issued.

B. Performance Summary. The administrative authority shall provide to the public at the time of initial failure a summary of the performance of local repair facilities that have repaired vehicles for retest. The summary shall include statistics on the number of vehicles submitted for a retest after repair by the repair facility, the percentage passing on first retest, the percentage requiring more than one repair/retest trip before passing, and the percentage receiving a certificate of waiver or adjustment.

C. Performance Reports. The administrative authority shall provide annually, feedback including statistical and qualitative information to individual repair facilities regarding their success in repairing failed vehicles.

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

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

§1933. Enforcement

A. General

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

2. A person shall not knowingly:

a. make any false material statement, representation, or certification in, or omit material information from or knowingly alter, conceal, or fail to file or maintain any document required pursuant to this Subchapter;

b. fail to notify or report as required under this Subchapter;

c. falsify, tamper with, render inaccurate, or fail to install any pollution control device or methods required to be maintained or repaired under this Subchapter;

d. temporarily adjust or repair a vehicle solely for the purpose of passing an emissions inspection and readjust the vehicle following the passing of an emissions test.

3. Failure to comply with the provisions of this Subchapter shall constitute violation of the Louisiana Environmental Quality Act (the Act) and shall be subject to any enforcement action provided thereunder.

4. Penalties shall be assessed for violations in accordance with the Act and any specific provisions in this Subchapter.

5. Compliance with all provisions of this Subchapter must be demonstrated before a violation is considered resolved.

B. Enforcement Against Vehicle Owners or Operators

1. Upon notice of noncompliance with the emission inspection requirements of this Subchapter by the administrative authority, the secretary of the Department of Public Safety and Corrections shall deny, suspend, or revoke the registration of the vehicle and impound or cancel the vehicle's license plate. Registration shall be denied until such time as compliance is demonstrated and any penalties due are paid in full.

2. Any person who fails to obtain the necessary certificate of compliance, waiver, or adjustment within the time limits provided in this Subchapter shall be assessed a civil penalty of a minimum of $50 and not more than $2500.

C. Enforcement Against Contractor and Inspectors

1. Substantial penalties or retainage shall be imposed on the first offense for violations that directly affect emission reduction benefits.

2. Neither the contractor nor any employee of the contractor shall be engaged in the business of manufacturing, selling, maintaining, or repairing vehicles.

3. Actions on behalf of a certified emissions inspector which lead to a loss of emissions reductions shall result in an immediate six-month suspension of the inspector, or a retainage penalty equivalent to the inspector's salary for that period shall be imposed.

4. In addition to any other penalties imposed, violations of any testing provision or the improper issuance of a certificate under this Subchapter shall require retraining or recertification of the inspector as deemed necessary by the administrative authority.

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

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

§1935. Miscellaneous

If any provision of this Subchapter or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or application of any other part of this Subchapter. To this end, each provision of this Subchapter, and the various applications thereof, are declared to be severable.

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

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

APPENDIX

Emission Standards

A. IM240 Emission Standards

1. Two Ways to Pass Standards. If the corrected, composite emission rate calculated during testing exceed standards for any pollutant, additional analysis of test results shall look at the second phase of the driving cycle separately. Phase 2 shall include second 94 through second 239. Second-by-second emission rates in grams, and composite emission rates in grams per mile for Phase 2 and for the entire test shall be recorded for each pollutant. For any given pollutant, if the composite emission level is below the composite standard or if the Phase 2 grams per mile

emission level is below the applicable Phase 2 standard, then the vehicle shall pass the test for that pollutant.

2. Start-up Standards. Start-up standards shall be used during the first full two year testing cycle beginning at program implementation . Tier 1 standards are recommended for 1996 and newer vehicles and may be used for 1994 and new vehicles certified to Tier 1 standards. The following exhaust emission standards, in grams per mile, are recommended:

a. Light-duty Vehicles (any passenger car or automobile):

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Com-posite	Phase 2	Com-posite	Phase 2	Com-posite	Phase 2
1996+ Tier 1	0.80	0.50	15.0	12.0	2.0	(Reserved)
1991-1995+	1.20	0.75	20.0	16.0	2.5	(Reserved)
1983-1990	2.00	1.25	30.0	24.0	3.0	(Reserved)
1981-1982	2.00	1.25	60.0	48.0	3.0	(Reserved)

b. Light-duty Trucks I (less than or equal to 6000 pounds GVWR):

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Com-posite	Phase 2	Com-posite	Phase 2	Com-posite	Phase 2
1996+ Tier 1						
(≤3750 LVW)	0.80	0.50	20.0	12.0	2.0	(Reserved)
(>3750 LVW)	1.00	0.63	25.0	16.0	2.5	(Reserved)
1991-1995	2.00	1.50	60.0	48.0	3.0	(Reserved)
1988-1990	2.00	1.50	80.0	64.0	3.5	(Reserved)
1984-1987	2.50	1.50	80.0	64.0	7.0	(Reserved)
1981-1983	5.00	3.50	100.0	80.0	7.0	(Reserved)

c. Light-duty Trucks II (greater than or equal to 6,001 and less than or equal to 8,500 pounds GVWR):

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Com-posite	Phase 2	Com-posite	Phase 2	Com-posite	Phase 2
1994+ Tier 1						
(≤5750 LVW)	1.00	0.63	20.0	16.0	2.5	(Reserved)
(>5750 LVW)	2.40	1.50	60.0	48.0	4.0	(Reserved)
1991-1995	2.00	1.50	60.0	48.0	4.5	(Reserved)
1988-1990	2.00	1.50	80.0	64.0	5.0	(Reserved)
1984-1987	2.50	1.50	80.0	64.0	7.0	(Reserved)
1981-1983	5.00	3.50	100.0	80.0	7.0	(Reserved)

d. Light-duty Trucks III (greater than or equal to 8,501 and less than or equal to 10,000 pounds GVWR):

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Com-posite	Phase 2	Com-posite	Phase 2	Com-posite	Phase 2
1991+	3.00	2.00	70.0	56.0	4.5	(Reserved)
1988-1990	4.00	2.50	90.0	72.0	5.0	(Reserved)
1984-1987	4.00	2.50	90.0	72.0	7.0	(Reserved)
1981-1983	8.00	5.00	130.0	104.0	7.0	(Reserved)

3. Final Standards (Reserved)

B. Idle Test Cutpoints for Bar90.

1. Start-up Standards.

a. Light-duty Vehicles (any passenger car or automobile):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1968-1969	1200	10
1970	1000	9
1971-1974	800	8
1975-1977	700	7
1978-1979	500	5.5
1980	400	4

b. Light-duty Trucks I (less than or equal to 6000 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1968-1969	1200	10
1970	1000	9
1971-1974	800	8
1975-1977	700	7
1978-1979	500	5.5
1980	400	4

c. Light-duty Trucks II (greater than or equal to 6,001 and less than or equal to 8,500 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1968-1969	1200	10

1970	1000	9
1971-1974	800	8
1975-1977	700	7
1978-1979	500	5.5
1980	400	4

d. Light-duty Trucks III (greater than or equal to 8,501 and less than or equal to 10,000 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1968-1969	1200	10
1970-1973	1100	9
1974-1978	900	7
1979	600	6
1980	500	5

2. Final Standards (Reserved)

C. On-road Testing

Remote sensing identification standards:

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
All Vehicles	1000	10

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

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

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

§223. Fee Schedule Listing

* * *

[See Prior Text in Fee Schedule Listing Table]

ADDITIONAL PERMIT FEES AND ADVF FEES		
Fee Number	Fee Description	Amount
	* * * [See Prior Text]	
2500 *NOTE 15*	Biennial Mobile Sources Enhanced Inspection Maintenance Fee	
	Biennial enhanced inspection maintenance motor vehicle emissions test fee beginning January 1, 1995 through 1996	10.00
	Biennial enhanced inspection maintenance motor vehicle emissions test fee beginning in 1997	20.00

Explanatory Notes for Fee Schedule

* * *

[See Prior Text in Note 1 through 14]

NOTE 15 A biennial emissions inspection fee for vehicles that are registered or required to be registered in any affected parish with a population of greater than two hundred thousand. A program emission inspection fee not to exceed $10 per vehicle inspected may be imposed if Intermodal Surface Transportation Efficiency Act funds are available for the purpose; to the extent such funds are not available a fee not to exceed $20 per vehicle inspected may be imposed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 20:

James B. Thompson, III
Assistant Secretary

DECLARATION OF EMERGENCY

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

Use of Incidental VOC Reductions to Demonstrate Reasonable Further Progress
(LAC 33:III.2020) (AQ86E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the assistant secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because of the requirements of the Clean Air Act Amendments (CAAA) of 1990 and the impact of the amendments upon the six-parish, ozone-nonattainment area around Baton Rouge. It is necessary for the DEQ to adopt this emergency edit to LAC 33:III.2120, an existing rule, to show compliance with the 15 percent Volatile Organic Compound (VOC) Reduction Reasonable Further Progress Plan in accordance with the 1990 CAAA.

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

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 21. Control of Emission of Organic Compounds
Subchapter A. General
§2120. Use of Incidental VOC Reductions to Demonstrate Reasonable Further Progress

A. Applicability. The provisions of this Section apply to sources designated pursuant to LAC 33:III.5101 and located in the ozone nonattainment area that includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge.

B. Emission reductions of VOCs achieved after November 15, 1990, through compliance with air toxic maximum achievable control technology (MACT) standards and ambient air standards (AAS) pursuant to LAC 33:III.Chapter 51 may be utilized by the Air Quality Division where necessary to demonstrate reasonable further progress (RFP) in accordance with Section 182(b)(1) of the Clean Air Act Amendments (CAAA) of 1990. Emission reductions available for use shall be identified by source and tonnage in the 15 percent VOC Reduction State Implementation Plan prepared pursuant to section 182 of the CAAA.

C. The owner or operator of each source so identified in the State Implementation Plan (SIP) shall submit a permit application to incorporate VOC emission reduction measures into the permit no later than February 15, 1995. The permit application shall contain all information required by LAC 33:III.517, including all information relative to the VOC emission reductions to be obtained through compliance with MACT and AAS. The permit application shall also include a compliance schedule for obtaining VOC emission reductions by November 15, 1996, as set forth by the SIP through the application of MACT (or compliance with AAS) as determined by the department pursuant to LAC 33:III.Chapter 51, and shall include compliance provisions specific to the source, including requirements and deadlines for compliance certification, testing, monitoring, reporting, and recordkeeping, which will meet the criteria specified in 40 CFR 70.6(a)(3) and LAC 33:III.507.H and which will assure that the reductions are maintained. The compliance schedule will have the force of a regulation pending issuance of a permit. Failure to comply with the provisions of the compliance schedule once approved by the department may result in enforcement action by EPA or by DEQ pursuant to R.S. 30:2025.

D. Permit limits, terms, and conditions reflecting the emission reductions and corresponding compliance schedules and compliance measures shall be incorporated in a federally enforceable permit issued by the department in accordance with LAC 33:III.Chapter 5 no later than February 15, 1997.

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

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

Gus Von Bodungen
Assistant Secretary

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary

Radiation Protection Definitions
(LAC 33:XV.102)(NE13E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because of the requirements of the Nuclear Regulatory Commission to remain in compliance as an Agreement State. It is necessary for the DEQ to adopt this emergency edit to LAC 33:XV.Chapter 1, in order to remain in full compliance with recently enacted federal regulations concerning Radiation Protection. This edit consists of the addition of some definitions which were mistakenly omitted during a previous rulemaking.

The immediate impact of this edit to the existing rule is to enhance the level of public protection from radiation.

This emergency rule is effective on February 14, 1994, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection
Chapter 1. General Provisions
§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

* * *

[See Prior Definition]

Absorbed Dose—the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

* * *

[See Prior Definitions]

Activity—the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

* * *

[See Prior Definition]

Adult—an individual 18 or more years of age.

* * *

[See Prior Definitions]

Airborne Radioactive Material—any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

Airborne Radioactivity Area—a room, enclosure, or area in which airborne radioactive materials exist in concentrations:

1. in excess of the derived air concentrations (DACs) specified in Appendix B, Table I of Chapter 4 of these regulations; or

2. to such a degree that an individual present in the area without respiratory protective equipment could exceed, during

the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

As Low As Is Reasonably Achievable (ALARA)—making every reasonable effort to maintain exposures to radiation as far below the dose limits in these regulations as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

* * *

[See Prior Definitions]

Background Radiation—radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices. Background radiation does not include sources of radiation from radioactive materials regulated by the division.

* * *

[See Prior Definition]

Bioassay—the determination of kinds, quantities or concentrations and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these regulations, "radiobioassay" is an equivalent term.

* * *

[See Prior Definition]

By-product Material—

1. any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

2. the tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute by-product material within this definition.

* * *

[See Prior Definitions]

Collective Dose—the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

Committed Dose Equivalent ($H_{T,50}$)—the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

Committed Effective Dose Equivalent ($H_{E,50}$)—the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,50} = \Sigma w_T H_{T,50}$).

Controlled Area—an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee or registrant for any reason.

* * *

[See Prior Definitions]

Deep Dose Equivalent (H_d)—the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm^2), which applies to external whole body exposure.

* * *

[See Prior Definitions]

Dose—a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these regulations, "radiation dose" is an equivalent term.

* * *

[See Prior Definition]

Dose Equivalent (H_T)—the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

Effective Dose Equivalent (H_E)—the sum of the products of the dose equivalent to each organ or tissue (H_T) and the weighting factor (w_T) applicable to each of the body organs or tissues that are irradiated ($H_E = \Sigma w_T H_T$).

* * *

[See Prior Definitions]

Entrance or Access Point—any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

* * *

[See Prior Definition]

Exposure—being exposed to ionizing radiation or to radioactive material.

* * *

[See Prior Definition]

External Dose—that portion of the dose equivalent received from any source of radiation outside the body.

Extremity—hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

Eye Dose Equivalent—the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm^2).

* * *

[See Prior Definition]

Generally Applicable Environmental Radiation Standards—standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

* * *

[See Prior Definitions]

Individual Monitoring—the assessment of:

1. dose equivalent by the use of individual monitoring devices or by the use of survey data; or

2. committed effective dose equivalent by bioassay or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours. (See the definition of DAC-hours in LAC 33:XV.Chapter 4); or

Individual Monitoring Devices—devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these regulations, "personnel dosimeter" and "dosimeter" are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal air sampling devices.

* * *

[See Prior Definitions]

Internal Dose—that portion of the dose equivalent received from radioactive material taken into the body.

* * *

[See Prior Definition]

Licensed (or Registered) Material—radioactive material received, possessed, used, transferred, or disposed of under a general or specific license (or registration) issued by the division.

* * *

[See Prior Definitions]

Limits (Dose Limits)—the permissible upper bounds of radiation doses.

Lost Or Missing Licensed (or Registered) Source of Radiation—licensed (or registered) source of radiation whose location is unknown. This definition includes licensed (or registered) material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

* * *

[See Prior Definitions]

Member of the Public—an individual in a controlled or unrestricted area. However, an individual is not a member of the public during any period in which the individual receives an occupational dose.

Minor—an individual less than 18 years of age.

* * *

[See Prior Definitions]

Monitoring—the measurement of radiation, radioactive material concentrations, surface area activities, or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these regulations, "radiation monitoring" and "radiation protection monitoring" are equivalent terms.

* * *

[See Prior Definitions]

Nuclear Regulatory Commission (NRC)—the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

* * *

[See Prior Definition]

Occupational Dose—the dose received by an individual in a restricted area or in the course of employment in which the individual's assigned duties involve exposure to sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: from background radiation, as a patient from medical practices, from voluntary participation in medical research programs, or as a member of the public.

* * *

[See Prior Definitions]

Public Dose—the dose received by a member of the public from exposure to sources of radiation either within a licensee's or registrant's controlled area or in unrestricted areas. It does not include occupational dose, dose received from background radiation, dose received as a patient from medical practices, or dose from voluntary participation in medical research programs.

* * *

[See Prior Definitions]

Quality Factor (Q)—the modifying factor, listed in Tables I and II of this section, that is used to derive dose equivalent from absorbed dose.

* * *

[See Prior Definitions]

Restricted Area—an area, access to which is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

* * *

[See Prior Definitions]

Shallow Dose Equivalent (H_s)—the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm^2) averaged over an area of 1 square centimeter, which applies to the external exposure of the skin or an extremity.

* * *

[See Prior Definitions]

Site Boundary—that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

* * *

[See Prior Definitions]

Total Effective Dose Equivalent (TEDE)—the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

* * *

[See Prior Definitions]

Units of Activity—for purposes of these regulations, activity is expressed in the SI unit of becquerel (Bq) or in the special unit of curie (Ci), or their multiples, or disintegrations or transformations per unit of time:

1. one becquerel (Bq) = 1 disintegration or transformation per second (dps or tps).

2. one curie (Ci) = 3.7E+10 disintegrations or transformations per second (dps or tps) = 3.7E+10 becquerel (Bq) = 2.22E+12 disintegrations or transformations per minute (dpm or tpm).

Units of Exposure and Dose—

1. as used in these regulations, the unit of exposure is the coulomb per kilogram (C/kg)of air. One roentgen is equal to 2.58E-4 coulomb per kilogram of air.

2. as used in these regulations, the units of dose are:

a. *Gray (Gy)*—the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule per kilogram (100 rad).

b. *Rad*—the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 Gy).

c. *Rem*—the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

d. *Sievert*—the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

3. as used in these regulations, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I

QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

Type of Radiation	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent[a]
X, gamma, or beta radiation and high speed electrons	1	1.0
Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge	-	200.05
Neutrons of unknown energy	10	0.1
High energy protons	10	0.1

[a]Absorbed dose in gray equal to 1 Sv or the absorbed dose in rad equal to 1 rem.

4. If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in sievert per hour or rem per hour, as provided in Paragraph 3 of this section, 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these regulations, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II

MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

Neutron Energy (MeV)	Quality Factor (Q)	Fluence per Unit Dose Equivalent (neutrons cm^{-2} rem^{-1})	Fluence per Unit Dose Equivalent (neutrons cm^{-2} Sv^{-1})
2.5E-8 (Thermal)	2	980E+6	980E+8
1E-7	2	980E+6	980E+8
1E-6	2	810E+6	810E+8
1E-5	2	810E+6	810E+8
1E-4	2	840E+6	840E+8
1E-3	2	980E+6	980E+8
1E-2	2.5	1010E+6	1010E+8
1E-1	7.5	170E+6	170E+8
5E-1	11	39E+6	39E+8
1	11	27E+6	27E+8
2.5	9	29E+6	29E+8
5	8	23E+6	23E+8
7	7	24E+6	24E+8
10	6.5	24E+6	24E+8
14	7.5	17E+6	17E+8
20	8	16E+6	16E+8
40	7	14E+6	14E+8
60	5.5	16E+6	16E+8
1E+2	4	20E+6	20E+8
2E+2	3.5	19E+6	19E+8
3E+2	3.5	16E+6	16E+8
4E+2	3.5	14E+6	14E+8

[a]Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

[b]Monoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

* * *

[See Prior Definition]

Unrestricted Area—an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these regulations, "uncontrolled area" is an equivalent term.

* * *

[See Prior Definitions]

Week—seven consecutive days starting on Sunday.

Whole Body—for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

* * *

[See Prior Definitions]

Year—the period of time beginning in January used to determine compliance with the provisions of these regulations. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, LR 20:

James B. Thompson, III
Assistant Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of Public Health

Sanitary Code—Ban of Prairie Dogs (Chapter III)

The Department of Health and Hospitals, Office of Public Health hereby adopts the following emergency rule in accordance with the Administrative Procedure Act, R.S. 49:953(B), and is publishing a concurrent Notice of Intent to amend Chapter III of the State Sanitary Code. This emergency rule shall remain in effect for the maximum of 120 days, and following the normal promulgation process will become a part of the State Sanitary Code.

This emergency adoption is necessary in order that the department can prohibit the importation and/or sale of prairie dogs in Louisiana. Prairie dogs can harbor the hantavirus which has been responsible for the death of several persons in the southwestern area of the United States and for the death of one person in Louisiana.

Emergency Rule

Effective March 20, 1994, the Office of Public Health is banning and prohibiting the importation and/or sale of prairie dogs in Louisiana in an effort to protect the citizens of the state, as well as, native animals.

Chapter III
The Control of Rabies and Other Zoonotic Diseases

* * *

Part 2. Other Zoonotic Diseases

3:009 Definition. *Prairie Dogs* are any burrowing rodents of the genus *Cynomys*. Prairie dogs can harbor the hantavirus. Prairie dogs are also known to be a host for fleas, which carry the causative agent of Bubonic Plague, the bacteria *Yersinia pestis*. These fleas have the potential to infect other wild animals, as well as domestic animals and humans. Prairie dogs are not indigenous to Louisiana.

3:010 The importation and/or sale of prairie dogs in Louisiana is prohibited.

3:011 This part shall not apply to zoos approved by the American Association of Zoological Parks and Aquariums.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of Motor Vehicles

Driver's License Retesting Fee (LAC 55:III.127)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and R.S. 32:412(H) which authorizes the Office of Motor Vehicles to assess retesting fees; the Office of Motor Vehicles hereby finds that an imminent peril to the public welfare exists and accordingly adopts an emergency rule.

The state of Louisiana will lose significant revenue if this emergency rule is not in effect upon completion of the computer program required to implement this retesting fee, as this rule is the necessary authority for assessing the fee.

The effective date of this emergency rule is February 24, 1994 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 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 1. Driver's License
§127. Retesting Fees

Each person who takes a second or subsequent test, whether written or driving, administered by the Office of Motor Vehicles in connection with an application for the issuance or renewal of a drivers license, shall pay a nonrefundable fee of $10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412 H.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 20:

Paul W. Fontenot
Deputy Secretary

DECLARATION OF EMERGENCY

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

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

In accordance with R.S. 49:953(B), the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, is exercising the provisions of the Administrative Procedure Act to adopt an emergency rule pertaining to the operating standards of riverboat gaming. This emergency rule becomes effective February 21, 1994 and shall remain in effect for 120 days.

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

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

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

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

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

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

Paul W. Fontenot
Deputy Secretary

DECLARATION OF EMERGENCY

Department of Social Services
Office of Rehabilitation Services

Policy Manual (LAC 67:VII.101)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services is adopting revisions to its policy manual through the emergency rule provisions.

This emergency rule is necessary to continue the provisions of a previous emergency rule published in the *Louisiana Register*, Vol. 19, No. 11, November 20, 1993, page 1412, until the final rule takes effect on March 20, 1994. This emergency rule is effective March 1, 1994.

The purpose of the previous declaration of emergency, effective November 1, 1993, for 120 days, was to provide federally-mandated revisions to the rules governing the policy used by the Office of Rehabilitation Services in implementing its various programs in a timely manner so as to avoid the loss of federal funding.

Copies of the entire text of the proposed policy manual may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA; at Louisiana Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA; and at each of its nine regional offices.

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

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

Plan Document Provisions for IV Medications and Supplies

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 in order to pay benefits for medications and IV therapies for plan members with life threatening illnesses. This emergency rule is effective

February 10, 1994, for 120 days. The plan document is amended as follows.

1. Amend page 4 of the Schedule of Benefits under the deductible section to read as follows:

Prescription drugs, surgical supplies and medical supplies,

2. Amend page 5 of the Schedule of Benefits under the footnoted section for eligible expenses to read as follows:

4) expenses for prescription drugs, surgical supplies and medical supplies (never eligible for 100 percent reimbursement).

3. Amend Article 3, Section I, Item F preamble paragraph to read as follows:

..., subject to applicable limitations of the Fee Schedule and the schedule of benefits, ...

4. Amend Article 3, Section I, Item F-11 to read as follows:

Intravenous injections, solutions and eligible related intravenous supplies, however, such related intravenous supplies shall not be subject to the terms of Article 3, Section I, Item F-10 of the plan document;

James R. Plaisance
Executive Director

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Commercial Spotted Seatrout Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:325.3 which allowed the commission to establish an annual quota for spotted seatrout, and the commission rule of February 1992, LAC 76:341, establishing a quota of one million pounds, the secretary of the Department of Wildlife and Fisheries pursuant to a resolution passed by the Wildlife and Fisheries Commission on January 6, 1994 in Baton Rouge, hereby declares an emergency and adopts the following emergency rule effective March 6, 1994.

Pursuant to R.S. 56:325.3 and LAC 76:341 the commercial fishery for spotted seatrout is hereby closed until midnight September 14, 1994, effective at midnight Sunday, March 6, 1994.

The purchase, barter, trade or sale of spotted seatrout taken from Louisiana waters after the closure is prohibited.

The commercial taking or landing of spotted seatrout in Louisiana, whether caught within or without the territorial waters of Louisiana after the closure is prohibited.

Effective with the closure, no vessel possessing or fishing any seine, gill net, trammel net, or hoop net shall have spotted seatrout aboard the vessel, whether caught within or without the waters of the state.

Pursuant to R.S. 56:322 and effective with the closure, the legal commercial mesh size for all gill nets, trammel nets and seine nets used in saltwater areas of the state, other than strike nets, shall be a minimum of 4½ inches stretched and a person shall have in possession or use aboard a vessel no more than two strike nets.

Nothing shall prohibit the possession of fish legally taken prior to the closure and all commercial dealers possessing spotted seatrout taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

Joe L. Herring
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Trapping Season Extension

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 49:967(D) which provides that the Wildlife and Fisheries Commission use emergency procedures to extend the 1993-94 trapping season in the east portion of the south zone through March 31, 1994, the secretary of the Department of Wildlife and Fisheries hereby adopts the following emergency rule. The Wildlife and Fisheries Commission gave the secretary the authority to extend or shorten the adopted season at the September 2, 1993 meeting.

The area that will remain open is bordered on the west by the western boundary of Terrebonne Parish to U.S. Highway 90; then west to the East Guide Levee of the Atchafalaya Basin; then north to Interstate Highway 10. The northern boundary is Interstate Highway 10 east to Baton Rouge; then east on Interstate Highway 12 to Slidell; then east on Interstate Highway 10 to the Mississippi state line.

Additionally, the experimental season in the north zone allowing only soft catch (padded traps) and nonlocking snares is extended through March 31, 1994. The north zone is bounded on the south by Interstate Highway 10 from the Texas state line to Baton Rouge; Interstate 12 from Baton Rouge to Slidell; and Interstate Highway 10 from Slidell to the Mississippi state line.

Joe L. Herring
Secretary

RULES

RULE

Department of Economic Development
Office of Financial Institutions

Capital Companies Tax Credit Program
(LAC 10:XV.303)

(Editor's Note: Section 303 of rules, which appeared on pages 154 through 160 of the February 20, 1994 *Louisiana Register,* is being republished to correct typographical errors.)

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC
Part XV. Other Regulated Entities
Chapter 3. Louisiana Capital Companies Tax Credit Program (formerly LAC 13:I.Chapter 7)

§303. Definitions Provided by Rule (formerly LAC 13:I.703)

The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise:

Affiliated Companies or *Affiliate*—for purposes of the transfer or sale of income and premium tax credits, pursuant to R.S. 51:1924(F) and R.S. 22:1068(E)(4):

a. two or more corporations, partnerships or juridical entities closely related through common ownership or stock ownership;

b. the surviving entity after a merger into that entity of an insurance company; or

c. the transferee from an insurance company in rehabilitation, receivership or liquidation.

Allowable Organization Costs—are those direct costs incurred to incorporate and charter an entity; however, such costs are limited to 25 percent of capitalization, before any reduction for disallowed organization costs.

a. Direct organization costs include, but are not limited to legal, accounting, consulting fees and printing costs directly related to the chartering or incorporation process, and filing fees paid to chartering authorities. Allowable organization costs may be capitalized and amortized over a period not to exceed five years.

b. Pre-opening and development stage enterprise costs, such as salaries and employment benefits, rent, depreciation, supplies, directors' fees, training, travel, expenses associated with the establishment of business relationships, postage and telephone fees are examples of costs that shall be expensed and not capitalized. Similarly, direct costs associated with the offering and issuance of capital stock are not considered to be organization costs and shall not be capitalized; these costs shall be deducted from the proceeds in recording initial capitalization.

BIDCO—a business and industrial development corporation licensed pursuant to the Louisiana Business and Industrial Development Corporation Act, R.S. 51:2386 et seq.

CAPCO—a certified Louisiana capital company certified pursuant to the Louisiana Capital Companies Tax Credit Program, R.S. 51:1921 et seq.

Capitalization—for purposes of initial certification, pursuant to R.S. 51:1925(B):

a. generally accepted accounting principles (GAAP) capital: common stock, preferred stock, general partnership interests, and limited partnership interests, all of which shall be exchanged for cash; surplus; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by disallowed organization costs.

b. LESS: the following, when any preferred or common stock, or partnership interests are subject to redemption or repurchase by the CAPCO:

Preferred stock, common stock, partnership interests, or limited partnership interests shall be multiplied by the following percentage reductions and deducted from capital:

Within 5 years from redemption or repurchase	20%
Within 4 years from redemption or repurchase	40%
Within 3 years from redemption or repurchase	60%
Within 2 years from redemption or repurchase	80%
Within 1 year from redemption or repurchase	100%

c. Notwithstanding the foregoing, there will be no reduction for a withdrawal within five years after certification, provided the withdrawal is contemplated by all governing documents and disclosed to all prospective investors and any such withdrawal is concurrently replaced by an equal amount of cash GAAP capital. Moreover, the amount contemplated to be withdrawn shall not be the basis for any income tax credit or premium tax reduction.

Commissioner—the commissioner of the Office of Financial Institutions.

Control—owning, controlling, or having the power to vote, directly or indirectly, ten percent or more of any class of voting securities; or controlling in any manner the election of a majority of the directors or trustees; or after notice and opportunity for hearing, the commissioner determines that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company.

Date Certified, Newly Certified or *Designated as a Certified Louisiana Capital Company*—the date that a CAPCO is notified of the certification or recertification by the commissioner.

Equity Investment—shall include [pursuant to R.S. 51:1923(4) and *Qualified Investment* as hereinafter defined pursuant to R.S. 51:1923(5)] common stock, preferred stock and debt, provided such debt is convertible into common stock or preferred stock at the option of either the CAPCO or the CAPCO and the borrower. The dominant feature of the conversion right shall be the right to acquire, or the acquisition of, an equity position, i.e., an ownership interest. Such debt, common stock or preferred stock may include the following features or elements: royalty rights, net profit interests, warrants for future ownership, or equity sale participation rights, all as hereinafter defined, and such other conceptually similar rights and elements as the OFI may approve.

a. *Royalty Right*—a right to receive a percent of gross or net revenues, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon revenues in excess of a base amount.

b. *Net Profit Interest*—a right to receive a percent of operating or net profits, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon operating or net profits in excess of a base amount.

c. *Warrant for Future Ownership*—an option on the stock of the qualified Louisiana business. The qualified Louisiana business may repurchase a warrant (a "call") or the qualified Louisiana business may be required to repurchase a warrant (a "put") at some fixed amount or an amount based on a pre-agreed upon formula.

d. *Equity Sale Participation Right*—a conversion option of debt, to convert all or a portion of the debt to the qualified Louisiana business's stock, then to participate in the sale of the stock of the qualified Louisiana business.

Office and OFI—the Office of Financial Institutions.

Permissible Investments—for purposes of R.S. 51:1926(B), cash deposited with a federally-insured financial institution; certificates of deposit in federally-insured financial institutions; investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States; investment-grade instruments (rated in the top four rating categories by a nationally recognized rating organization); obligations of any state, municipality or of any political subdivision thereof; or any other investments approved in advance, in writing, by the commissioner.

Primary Business Activity—at all times, a minimum of 50 percent of total certified capital, which has been collected in cash, will be available for investment in or has been invested as a qualified investment.

Qualified Investment—as defined in R.S. 51:1923(5), shall not include:

a. any investment in a business engaged primarily in lending or investing activities, long-term leasing activities or any passive business activities. A passive business is one that is not engaged in a regular or continuous operation or derives substantially all of its income from passive investments that generate interest, dividends, royalties or capital gains;

b. with the exception of participations between CAPCOs, any qualified investment which is reflected as a qualified investment on another CAPCO's books;

c. reciprocal investments or loans made between CAPCOs;

d. an investment in a subsidiary of a CAPCO;

e. an investment in an affiliate of the CAPCO, unless approved in writing by the commissioner. For purposes of this subsection, *affiliate* means a person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with the CAPCO or its management or directors.

Qualified Louisiana Business—a business that will use substantially all of the proceeds from a qualified investment in the furtherance of economic development within Louisiana, as may be demonstrated by one or more of the following economic indicators resulting from such qualified investment:

a. an increase in the number of Louisiana jobs or the retention of existing Louisiana jobs;

b. an increase or expansion in production facilities or operating facilities within Louisiana;

c. an increase in export trade directed through Louisiana ports;

d. an increase in overall sales or production volume in the qualified Louisiana business; or

e. any other economic benefits to the state of Louisiana.

Total Certified Capital Under Management—for purposes of investment limits, pursuant to R.S. 51:1926(B):

a. GAAP capital: common stock, preferred stock, general partnership interests, and limited partnership interests, all of which shall be exchanged for cash; surplus; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by disallowed organization costs.

b. PLUS Qualified NON-GAAP Capital: the portion of any certified capital in the form of debentures, notes or any other quasi-equity/debt instruments with a maturity of at least five years which is available for investment in Qualified Investments.

c. LESS: the following, when any GAAP Capital or Qualified NON-GAAP Capital is subject to redemption or repurchase by the CAPCO:

The GAAP Capital and Qualified NON-GAAP Capital subject to redemption or repurchase shall be multiplied by the following percentage reductions and deducted from capital:

Within 5 years from redemption or repurchase	20%
Within 4 years from redemption or repurchase	40%
Within 3 years from redemption or repurchase	60%
Within 2 years from redemption or repurchase	80%
Within 1 year from redemption or repurchase	100%

Total Certified Capital or Certified Capital—for purposes of R.S. 51:1926, 1927 and 1928 means the total of all investments into a CAPCO pursuant to R.S. 51:1924(A) and (B) and R.S. 22:1068(E), and includes any investments made by an agency of the state of Louisiana or a political subdivision of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1932.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), repromulgated LR 20: (March 1994).

Larry L. Murray
Commissioner

RULE

Board of Elementary and Secondary Education

Bulletin 741—Handbook for School Administrators—Health Education Requirements

In accordance with R.S. 49:950 seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted an amendment to the high school graduation requirements to require one and one-half unit of physical education at the secondary level and one-half unit of health education at either the middle school or secondary level. This is an amendment to Bulletin 741, Louisiana Handbook for School Administrators as stated below:

MINIMUM REQUIREMENTS FOR HIGH SCHOOL GRADUATION
(Effective Beginning 1994-95 and Thereafter for Incoming Freshmen)

* * *

Physical Education 1 1/2 units

Shall be Physical Education I and II or Adapted Physical Education for eligible special education students.

Health Education 1/2 unit

(All other requirements remain the same.)

Standard 2.102.01

Amend the fourth procedural block to read:

"Credit or Credit Examinations may be given in the following subjects: Computer Literacy, Computer Science I-II; English I-IV; Advanced Mathematics, Algebra I-II, Calculus, Geometry, Trigonometry, *Health Education*, and Typewriting I. Additionally, credit may be given in all courses listed in the Program of Studies in Foreign Languages, Science, and Social Studies. Exceptions may be made by the Bureau of Secondary Education, State Department of Education upon request of the local superintendent."

Standard 2.105.08, amend to read:

Physical Education

One and one half units of physical education shall be required for graduation. They shall include Physical Education I and II or Adapted Physical Education for eligible special education students. The physical education course offering shall be as follows:

Course Title	Unit(s)	Refer to Bulletin
Adapted Physical Education I, II, III, IV	1 each	
Physical Education I, II, III, and IV	1 each	1597

The following procedural block remains the same:

It is recommended that Physical Education I and II be taught in the ninth and tenth grades.

Standard 2.105.09, amend to read:

Health Education

1/2 unit of health education shall be required for graduation. The Health Education course offering shall be as follows:

Course Title	Unit(s)	Refer to Bulletin
Health Education	1/2	1596

(Remaining Standards are renumbered accordingly.)

AUTHORITY NOTE: R. S. 17:6(A); (10); (11)

HISTORICAL NOTE: LR 20: (March 1994).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 746—Standards for Certification of School Personnel—Special Education

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 adopted the changes/modifications in certification requirements for special education personnel. These requirements are included in Bulletin 746, Standards for State Certification of School Personnel.

The full text of these revised certification requirements may be obtained from the Office of the State Register, located on the Fifth Floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, LA 70804, telephone (504)342-5015 and from the Bureau of Teacher Certification or the Office of the Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA 70804, telephone (504) 342-5841.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, and 17:7.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 746—Standards for Certification of School Personnel—Temporary Employment Permits (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted the following revised policy on Temporary Employment Permits for inclusion in Bulletin 746, Louisiana Standards for State

Certification of School Personnel. The revisions printed incorporate the provisions of Act 914 of the 1993 Louisiana Legislature.

Temporary Employment Permits

A temporary employment permit, valid for one school year, will be granted to those candidates who meet the qualifying scores on the revised NTE in three out of four modules and whose aggregate score is equal to or above the total score on all four modules required for standard certification. All other standard certification requirements must be met.

When no area examination is required, a temporary employment permit will be granted to candidates who meet qualifying scores in two out of three modules of the Core Battery and whose aggregate score is equal to or above the total score on all three modules of the Core Battery required for certification. All other standard certification requirements must be met.

To employ an individual on a temporary employment permit, a local superintendent must verify that no regularly certified teacher is available for employment. Names of the individuals employed on a temporary employment permit are to be listed on the addendum to the Annual School Report with verification that no regularly certified teacher is available.

An individual can be reissued a permit three times under the board policy only if evidence is presented to the State Department of Education that the NTE has been retaken within one year from the date the permit was last issued. Beginning with the fifth year, to receive a Temporary Employment Permit, an individual must present the following:

1. evidence that the NTE has been taken within one year from the date the permit was last issued;
2. verification from the employing superintendent that the individual is applying for employment in a specific teaching position for which there is no regularly certified teacher available;
3. a recommendation from the employing superintendent;
4. verification of successful local evaluations for the previous four years.

Temporary employment permits will be issued at the request of individuals who meet all requirements for regular certification with the exception of the NTE scores. All application materials required for issuance of a regular certificate must be submitted to the Bureau of Higher Education and Teacher Certification with the application for issuance of a temporary employment permit.

Since this policy will be included in Bulletin 746, it will be deleted from the Administrative Code as noted below.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§903. Teacher Certification Standards and Regulations

* * *

C. Temporary Employment Permits
Repealed

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:76(E), Act 914 of 1993.

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

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 746—Standards for Certification of School Personnel—Temporary Teaching Assignments

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, adopted the following revisions to the regulations, policies, and procedures for granting temporary teaching assignments for inclusion in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Temporary Teaching Assignments

Local school systems and diocesan systems shall have the authority to grant temporary teaching assignments. A temporary teaching assignment, valid for one school session only and the summer immediately following the school year, and authorizing the employment of a specified teacher in a position for which he is not regularly certified, may be issued by the employing superintendent according to the following regulations.

1. For public schools, the local superintendent must sign the following statement on each temporary teaching assignment:

   "I hereby certify that there is no regularly certified, competent, and suitable person available for this position and that the applicant named above is the best qualified person available for employment in the position herein above described."

2. A temporary teaching assignment may be made only for persons who have a baccalaureate degree.
3. Teachers in public schools, and special education teachers in nonpublic schools, who do not have a regular Louisiana teaching certificate must have the appropriate scores on the NTE and be eligible for admission to an approved teacher education program.
4. Renewals may be made on a yearly basis. To be eligible for reemployment on a temporary teaching assignment, a minimum of six semester hours of resident or extension credit must be earned. The hours must be applicable toward certification in the area in which the temporary teaching assignment was approved.
5. Temporary teaching assignments shall be made on forms prescribed by the State Department of Education.
6. The local school system and diocesan systems shall be responsible for maintaining files on all temporary teaching assignments.

7. A temporary teaching assignment may be reissued by a local school system or diocesan system to an applicant who has not met the requirement of earning six semester hours of college credit when one or more of the following conditions are met.

A. Medical Excuse. When serious medical problems of the teacher or immediate family in the same household exist, a doctor's statement is required with a letter of assurance from the superintendent and teacher that the hours will be earned.

B. Required Courses not Available. A letter of verification from area universities is required stating that the required courses are not being offered.

C. Change of School, Parish or School System. A justification letter from the superintendent is required. Reissuance is permitted only if the change is not part of a continuous pattern.

D. Change of Certification Areas. A letter of justification from the superintendent is required to explain the new job assignment with assurance that the requirements for the next temporary teaching assignment will be met.

E. Courses not Applicable Toward Certification. A letter of justification from the superintendent is required with assurance that the teacher will become enrolled in the proper program.

These are the only conditions that may be used. Documentation which supports the above condition must be maintained in the teacher's personnel file. (The Bureau of Higher Education and Teacher Certification will use the same criteria for issuing TTA's to teachers in private schools.)

8. The local school systems and diocesan systems shall be accountable for all aspects of this program.

9. The State Department of Education shall monitor the implementation of the regulations for temporary teaching assignments.

NOTE: Private, nondiocesan schools must apply to the State Department of Education, Bureau of Higher Education and Teacher Certification for a Temporary Teaching Certificate. The regulations listed above which apply to nonpublic schools are also applicable for private, nondiocesan schools.

AUTHORITY NOTE: R.S. 17:6.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1868—BESE Personnel Manual

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 adopted the following amendment to Bulletin 1868, BESE Personnel Manual.

Chapter C: Employee Personnel Activities

131: Reduction in Force

* * *

B. Special School District Number 1

* * *

3. Teachers

* * *

h. Other Policy Provisions Governing Reduction in Force for Teachers

* * *

(3) Seniority begins to accrue with the effective date of employment as approved by the board to regular full-time employment in a certified position.

NOTE: Regular employment means continuous contracted service in a vacant position (i.e., not as a substitute for some other teacher). A teacher who has a break in contracted service (other than as a result of layoff under this policy; a situation which is governed by 131 B.3.h.(4) does not receive credit toward seniority for the service prior to the break).

AUTHORITY NOTE: R. S. 17.6.

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

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 1903—Dyslexic Student Education Guidelines

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 adopted a revision to Bulletin 1903, Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students to add "No child shall be screened if his parent or guardian (tutor) objects to such screening", under Step One of the guidelines as noted below:

Step One. Date Gathering, Screening, and Review

I. Request for Assistance by the School Building Level Committee

A. A request may be made to the school building level committee for review of a student's educational progress if school personnel (principal, guidance counselor, teacher, school nurse) a parent/guardian, community agency personnel, or a student has reason to believe that the student is not making expected progress because of a suspected language processing disorder. No child shall be screened if his parent or guardian (tutor) objects to such screening. This request begins the 60 day timeline. The committee membership may be modified in order that a group of knowledgeable persons may address an individual student's needs.

This amendment is based on language which appears in R.S. 17:392.1(B).

AUTHORITY NOTE: R. S. 17:7(11).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Hiring Noncertified School Personnel
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following revised interim policy for hiring full-time/part-time noncertified school personnel. This is a revision to the Administrative Code, Title 28 as noted below.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§903. Teacher Certification Standards and Regulations

* * *

I. Noncertified Personnel

1. Full-time/part-time noncertified school personnel, excluding speech, language, and hearing specialists, may be employed by parishes having difficulty in employing certified persons in certain positions, provided that the following documentation is submitted to the Department of Education:

a. a signed affidavit by the local superintendent that the position could not be filled by a certified teacher;

b. submission of names, educational background, subject matter and grade level being taught as an addendum to the Annual School Report; and

c. documentation kept on file in the LEA's superintendent's Personnel Office shall include:

i. copies of transcripts showing the degree earned;

ii. documentation that efforts for recruitment of certified teachers have been made (e.g. newspaper advertisements, letters, contacts with colleges, and so forth);

iii. documentation that the teacher is eligible for admission to a teacher education program.

d. In addition:

i. it is required that these teachers take the NTE at the earliest date that it is offered in their geographical area; and

ii. these individuals must have a minimum of a baccalaureate degree from a regionally accredited institution and be eligible for admission to a teacher education program;

iii. to be re-employed under this policy, an individual must have earned at least six semester hours toward completion of a teacher education program or six semester hours appropriate to the area of the NTE (general knowledge, professional knowledge, communication skills, specialty area) in which the score was not achieved;

iv. effective with the 1992-93 school year, the total number of years a person may be employed according to the provisions of this policy, inclusive of experience prior to 1992-93, is five years;

v. these individuals shall be employed at a salary that is based on the effective state salary schedule for a beginning teacher with a baccalaureate degree and a certificate with zero years of experience. Local salary supplements are optional;

vi. copies of transcripts showing the six semester hours and a copy of the NTE score card showing the NTE has been taken since the last employment under this policy shall be kept on file in the LEA's superintendent's Personnel Office;

vii. to be eligible for re-employment under this policy, a teacher who has not met the requirement of earning six semester hours of college credit or who has not taken the NTE must meet one or more of the following conditions:

(a). Medical Excuse. When serious medical problems of the teacher or immediate family in the same household exist, a doctor's statement is required with a letter of assurance from the superintendent and teacher that the hours will be earned.

(b). Required Courses not Available. A letter of verification from area universities is required stating that the required courses are not being offered.

(c). Change of School, Parish or School System. A justification letter from the superintendent is required. Reissuance is permitted only if the change is not part of a continuous pattern.

(d). Change of Certification Areas. A letter of justification from the superintendent is required to explain the new job assignment with assurance that the requirements for continued employment under this policy will be met.

(e). Courses not Applicable Toward Certification. A letter of justification from the superintendent is required with assurance that the teacher will become enrolled in the proper program.

(These are the only conditions that may be used. Documentation which supports the above condition must be maintained in the teacher's personnel file.)

This interim emergency policy will remain in effect until July 1, 1995.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 20: (March 1994).

Carole Wallin
Executive Director

RULE

Student Financial Assistance Commission
Office of Student Financial Assistance

Electronic Funds Transfer (EFT) (LAC 28:V)

The Louisiana Student Financial Assistance Commission amends 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 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).

2. 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.

3. Any school with adverse program review or audit findings related to the student loan program or accounting procedures of Level 3 or higher will not be permitted to participate in EFT/EDI. Level 3 findings reflect a consistent pattern of institutional practices which clearly indicate impaired administrative capability. They are very serious deficiencies which warrant administrative action, such as a fine, limitation or termination. Examples include untimely refunds or no refunds, failure to adhere to "ability to benefit" procedures, loans certified for students enrolled in ineligible programs or branch campuses, and inadequate or nonexistent fiscal records.

4. Minimum program length must be 600 clock hours.

5. Loan cancellations may not exceed 25 percent of loans guaranteed per enrollment period.

6. Student borrower withdrawal rate from the participating school may not exceed 25 percent per enrollment period.

7. 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.

3. Any lender with adverse program review or audit findings related to the student loan program or accounting procedures of Level 3 will not be permitted to participate in EFT/EDI. Level 3 findings are very serious findings in which the lender is suspected of fraud, or LASFAC has information which would support termination action against the lender. Lenders may also be barred from EFT/EDI if they have audit or program review findings of Level 2, under certain circumstances such as those which reflect gross neglect and/or very high monetary liabilities.

D. Administrative Requirements. The school and lender participating in EFT procedures must adequately address the following.

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 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

1. 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 30 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.

2. 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.

a. 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.

b. 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.

c. The BAS will be handled in one of the following ways.

i. If the school obtains the BAS, due to denial of EFT on common application and subsequent change of mind, the following steps should be followed.

(a). 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.

(b). The school obtains the student's signature on a BAS.

(c). The original of the BAS must be sent to the lender on a schedule determined between the lender and the school.

(d). 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.

(e). The lender transmits funds to the school according to Subsection F of these procedures.

(f). 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.

ii. If the lender obtains the BAS, do the following:

(a). 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.

(b). The lender obtains the student's signature on the BAS.

(c). The lender retains the original copy of the BAS, acting as an agent for the school.

(d). 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 March, 1994. Should statute or rules and regulations change, LASFAC will make every effort to promptly notify schools and lenders of the changes.

Jack L. Guinn,
Executive Director

RULE

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

Control of Emissions of Nitrogen Oxides (NO_x)
(LAC 33:III.2203) (AQ81)

(*Editor's Note*: The above referenced rule appeared on pages 162-178 of the February 20, 1994 *Louisiana Register*. The first four lines of Paragraph 11 on page 171 were inadvertently omitted. This error is being corrected by republishing the paragraph as shown below.)

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 22. Control of Emissions of Nitrogen Oxides
§2203. Large Combustion Sources

* * *

[See Prior Text in A-C]

D. Emission Specifications

* * *

[See Prior Text in D.1-10]

11. Any unit,including an electric utility steam-generating unit in an electric power generating system, that uses ammonia or urea as a NO_x reduction reagent must comply with the ambient standard for ammonia given in LAC 33:III. Chapter 51 according to the procedures given in that Chapter.

* * *

[See Prior Text in E-N.2.d]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:167 (February 1994), repromulgated LR 20: (March 1994).

James B. Thompson, III
Assistant Secretary

RULE

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

Emission of Organic Compounds, Exemptions
(LAC 33:III.2117) (AQ72)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2051 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 21 (Log AQ72).

This regulation incorporates minor changes to Chapter 21, Control of Emission of Organic Compounds. The changes are in the form of additions to the list of compounds considered exempt from control requirements of LAC 33:III.2101 to 2145. This regulation is necessary to clarify the acceptable exempt compounds.

These regulations are effective upon publication in the *Louisiana Register*.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 21. Control of Emission of Organic Compounds
Subchapter A—General
§2117. Exemptions

The following compounds are considered exempt from the control requirements of LAC 33:III.2101 to 2145: methane, ethane, 1, 1, 1 trichloroethane (methyl chloroform), methylene chloride (dichloromethane), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trichlorotrifluoroethane (CFC-113), trifluoromethane (FC-23), dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), dichlorotrifluroethane (HCFC-123), tetrafluoroethane (HFC-134a), dichlorofluoroethane (HCFC-141b), chlorodifluoroethane (HCFC-142b), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,1,2-pentafluoroethane (HFC-134), 1,1,1-trifluoroethane (HFC-143a), and 1,1-difluoroethane (HFC-152a). The following classes of perfluorocarbons are also considered exempt from the control requirements of LAC 33:III.2101 to 2145: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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 16:118 (February 1990), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (March 1994).

James B. Thompson, III
Assistant Secretary

RULE

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

Standards of Performance for New Stationary Sources
(LAC 33:III. Chapter 31) (AQ69)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2051 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 31.

The changes to LAC 33:III.Chapter 31 reflect updates to Subchapter A: General Provisions and Modifications, that have been promulgated in the various New Source Performance Standards. These include changes to Sections 3133, Incorporations by Reference; 3155, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units (Subpart Dc); 3550, Applicability and Designation of Affected Facility; and 3741, Standards: Closed Vent Systems and Control Devices. Section 3134, Emissions and Compliance Times (Subparts C, Ca and Cb) is created.

These changes have already been promulgated by the USEPA under 40 CFR 60 Subpart A. Promulgating changes to LAC 33:III.Chapter 31 will allow the DEQ to enforce these changes.

These regulations are to become effective upon publication in the *Louisiana Register*.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 31. Standards of Performance for New Stationary Sources
Subchapter A. General Provisions and Modifications
§3133. Incorporations by Reference

* * *

B. The following materials are available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM) 1916 Race Street, Philadelphia, Pennsylvania 19103; or the University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106.

1. ASTM D388-77, Standard Specification for Classification of Coals by Rank, incorporation by reference (IBR) approved for LAC 33:III.3136, 3140.F.4.a, b, f, 3143, 3153 and 3155.

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3. ASTM D3176-74, Standard Method for Ultimate Analysis of Coal and Coke, IBR approved January 27, 1983, for LAC 33:III.3140.F.5.a and 6073.

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6. ASTM D1946-77. Standard Method for Analysis of Reformed Gas by Gas Chromatography, IBR approved for LAC 33:III.3131, 3140.F.5.a, 3815, 4801 and 4841.

7. ASTM D2015-77, Standard Test Method for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb

Calorimeter, IBR approved January 27, 1983, for LAC 33:III.3140.F.5.b, 3141.G and 6073.E.2.b.

8. ASTM D1826-77, Standard Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter, IBR approved January 27, 1983, for LAC 33:III.3140.F.5.b, 3141.G, 3544.F and 6073.E.2.b.

9. ASTM D240-76, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, IBR approved January 27, 1983, for LAC 33:III.3141.G, 3544.F, 6073.B.2.c and E.2.b.

10. ASTM D396-78, Standard Specification for Fuel Oils, IBR approved for LAC 33:III.3153, 3155, 3291 and 3295.

11. ASTM D2880-78, Standard Specification for Gas Turbine Fuel Oils, IBR approved January 27, 1983, for LAC 33:III.3291 and 3295.

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13. ASTM D323-82 Test Method for Vapor Pressure of Petroleum Products (Reid Method), IBR approved April 8, 1987, for LAC 33:III.3291, 3295, and 3310.G.6.b.ii.

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20. ASTM D1072-80 Standard Test Method for Total Sulfur in Fuel Gases, IBR approved July 31, 1984, for LAC 33:III.3585.

21. ASTM D2986-71 (Reapproved 1978), Standard Method for Evaluation of Air, Assay Media by the Monodisperse DOP (Dioctyl Phthalate) Smoke Test, IBR approved January 27, 1983, for LAC 33:III.6015.C.1.a; Part 60 App. A, Method 12, 4.1.1; and LAC 33:III.6069.C.1.a.

22. ASTM D1192-77, Standard Specification for Reagent Water, IBR approved January 27, 1983, for LAC 33:III.6025.C.1.a; 6033.C.2.b; 6039.C.1.c; 6041.C.1.a; 6045.C.1.a; and Part 60 App. A, Method 12, 4.1.3.

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24. ASTM D2234-76, Standard Methods for Collection of a Gross Sample of Coal, IBR approved January 27, 1983, for LAC 33:III. 6073.

25. ASTM D3173-73, Standard Test Method for Moisture in the Analysis Sample of Coal and Coke, IBR approved January 27, 1983, for LAC 33:III.6073.

26. ASTM D3177-75, Standard Test Methods for Total Sulfur in the Analysis Sample of Coal and Coke, IBR approved January 27, 1983, for LAC 33:III.6073.

27. ASTM D2013-72, Standard Method of Preparing Coal Samples for Analysis, IBR approved January 27, 1983, for LAC 33:III.6073.

28. ASTM D270-65 (Reapproved 1975), Standard Method of Sampling Petroleum and Petroleum Products, IBR approved January 27, 1983, for LAC 33:III.6073.

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30. ASTM D1475-60 (Reapproved 1980), Standard Test Method for Density of Paint, Varnish, Lacquer, and Related Products, IBR approved January 27, 1983, for LAC 33:III.3685.D.1, and 6084.B.1, and 2.

31. ASTM D2369-81, Standard Test Method for Volatile Content of Coatings, IBR approved January 27, 1983, for LAC 33:III.6083.B.2.

32. ASTM D3792-79, Standard Method for Water Content of Water-Reducible Paints by Direct Injection Into a Gas Chromatograph, IBR approved January 27, 1983, for LAC 33:III.6083.B.3.

33. ASTM D4017-81, Standard Test Method for Water in Paints and Paint Materials by Karl Fischer Titration Method, IBR approved January 27, 1983, for LAC 33:III.6083.B.4.

34. ASTM E169-63 (Reapproved 1977), General Techniques of Ultraviolet Quantitative Analysis, IBR approved January 27, 1983, for LAC 33:III.3745.D, 4783.B, and 4822.F.

35. ASTM E168-67 (Reapproved 1977), General Techniques of Infrared Quantitative Analysis, IBR approved for LAC 33:III.3745.D, 4783.B, and 4822.F.

36. ASTM E260-73, General Gas Chromatography Procedures, IBR approved for LAC 33:III.3745.D, 4783.B, and 4822.F.

37. ASTM D2879-83, Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved April 8, 1987, for LAC 33:III.3301.B, 3310.G.5.c.ii and 6.b.i, and 3745.E.

38. ASTM D2382-76, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method), IBR approved for LAC 33:III.3131.B.4.a, 3745.G, 3815, 4801, and 4841.

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40. ASTM D86-78, Distillation of Petroleum Products, IBR approved for LAC 33:III.3815, 4783.D, and 4823.H.

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45. ASTM D2584-68, Standard Test Method for Ignition Loss of Cured Reinforced Resins, IBR approved February 25, 1985, for LAC 33:III.4875.

46. ASTM D3431-80, Standard Test Method for Trace Nitrogen in Liquid Petroleum Hydrocarbons (Microcoulometric Method), IBR approved November 25, 1986, for LAC 33:III.6073.

47. ASTM D129-64 (reapproved 1978), Standard Test Method for Sulfur in Petroleum Products (General Bomb Method), IBR approved for LAC 33:III.6073.

48. ASTM D1552-83, Standard Test Method for Sulfur in Petroleum Products (High Temperature Method), IBR approved for LAC 33:III.6073.

49. ASTM D1835-86, Standard Specification for Liquefied Petroleum (LP) Gases, to be approved for 40 CFR 60.41(b).

50. ASTM D1835-86, Standard Specification for Liquefied Petroleum (LP) Gases, IBR approved for LAC 33:III.3153.B and 3155.B.

51. ASTM D4057-81, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, IBR approved for LAC 33:III.6073.

52. ASTM D4239-85, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods, IBR approved for LAC 33:III.6073.

53. ASTM D2016-74 (Reapproved 1983), Standard Test Methods for Moisture Content of Wood for Appendix A to Part 60, Method 28.

54. ASTM D4442-84, Standard Test Methods for Direct Moisture Content Measurement in Wood and Wood-base Materials for Appendix A to Part 60, Method 28.

55. Reserved.

56. ASTM D129-64 (Reapproved 1978), Standard Test Method for Sulfur in Petroleum Products (General Bomb Method), IBR approved August 17, 1989, for LAC 33:III.3266.

57. ASTM D1552-83, Standard Test Method for Sulfur in Petroleum Products (High Temperature Method), IBR approved August 17, 1989, for LAC 33:III.3266.

58. ASTM D2622-87, Standard Test Method for Sulfur in Petroleum Products by X-ray Spectrometry, IBR approved August 17, 1989, for LAC 33:III.3266.

59. ASTM D1266-87, Standard Test Method for Sulfur in Petroleum Products (Lamp Method), IBR approved August 17, 1989, for LAC 33:III.3266.

60. ASTM D2908-74, Standard Practice for Measuring Volatile Organic Matter in Water by Aqueous-Injection Gas Chromatography, IBR approved for LAC 33:III.3815.

61. ASTM D3370-76, Standard Practices for Sampling Water, IBR approved for LAC 33:III.3815.

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F. The following material is available for purchase from the Water Pollution Control Federation (WPCF), 2626 Pennsylvania Avenue, N.W., Washington, D.C. 20037.

1. Method 209A., Total Residue Dried at 103-105°C in Standard Methods for the Examination of Water and Wastewater, 15th Edition, 1980, IBR approved February 25, 1985, for LAC 33:III.4873.B.

G. The following material is available for purchase from Underwriter's Laboratories Inc. (UL), 333 Pfingsten Road, Northbrook, IL 60062.

1. UL 103, Sixth Edition revised as of September 3, 1986, Standard for Chimneys, factory-built, residential type and building heating appliance.

H. The following material is available for purchase from West Coast Lumber Inspection Bureau, 6980 SW. Barnes Road, Portland, OR 97223.

1. West Coast Lumber Standard Grading Rules No. 16, pages 5-21 and 90 and 91, September 3, 1970, revised 1984.

I. The following material is available for purchase from the American Society of Mechanical Engineers (ASME), 345 East 47th Street, New York, NY 10017.

1. ASME QRO-1-1989. Standard for the Qualification and Certification of Resource Recovery Facility Operators, IBR approved for LAC 33:III.3175.

2. ASME PTC 4.1. Power Test Codes: Test Code for Steam Generating Units (1972). IBR approved for LAC 33:III.3153 and 3175.

3. ASME Interim Supplement 19.5 on Instruments and Apparatus; Application, Part II of Fluid Meters, 6th Edition (1971), IBR approved for LAC 33:III.3175.

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 20: (March 1994).

§3134. Emissions Guidelines and Compliance Times (Subparts C, Ca, Cb)

A. Emissions Guidelines and Compliance Times for Municipal Waste Combustors (Subpart Ca)

1. Applicability. This Section is applicable to municipal waste combustors.

2. Definitions. As used in this Section, all terms not defined in LAC 33:III.3103 or herein shall have the meaning given them in LAC 33:III.111 of these regulations.

Large Municipal Waste Combustor (MWC) Plant—a MWC plant with a MWC plant capacity greater than 225 megagrams per day (250 tons per day) but less than or equal to 1,000 megagrams per day (1,100 tons per day) of municipal solid waste (MSW).

Municipal Waste Combustor (MWC) Plant—one or more MWC units at the same location, for which construction, modification, or reconstruction is commenced on or before December 20, 1989.

Municipal Waste Combustor (MWC) Plant Capacity—the aggregate MWC unit capacity of all MWC units at a MWC plant for which construction, modification, or reconstruction is commenced on or before December 20, 1989.

Very Large Municipal Waste Combustor (MWC) Plant—a MWC plant with a MWC plant capacity greater than 1,000 megagrams per day (1,100 tons per day) of MSW.

3. Designated Facilities

a. The designated facility to which the guidelines apply is each MWC with a MWC unit capacity greater than 225 megagrams per day (250 tons per day) for which construction, modification, or reconstruction is commenced on or before December 20, 1989.

b. Reserved

c. Designated facilities that combust tires or fuel derived solely from tires and that combust no other MSW or refuse derived fuel (RDF) are exempt from all provisions of this Section except an initial report of start-up date, location, and the types and amounts of fuel they fire.

d. Cofired combustors, as defined under LAC 33:III.3175, are exempt from all provisions of this Section except the initial report as required under LAC 33:III.3175.J, and records and reports of the daily weight of MSW or RDF and other fuels fired as required under LAC 33:III.3175.J.2.n and 13.

e. Cofired combustors that are subject to a state-enforceable permit limiting the operation of the combustor to no more than 225 megagrams per day (250 tons per day) of MSW or RDF are exempt from all provisions of this Section.

f. Municipal waste combustors combusting medical waste with MSW and meeting all other applicability requirements are subject to all provisions of this Section. Units firing solely segregated medical waste are not covered by this Section.

g. Physical or operational changes made to an existing MWC unit to comply with the emission guidelines under this Section are not considered a modification or reconstruction and would not bring an existing MWC unit under the provisions of LAC 33:III.3175.

4. Emission Guidelines for Municipal Waste Combustor Metals. The emission guidelines for MWC metals, expressed as PM contained in gases discharged to the atmosphere from any designated facility located within a large or very large MWC plant, are as follows:

MWC PLANT CAPACITY	GUIDELINE EMISSION LEVEL (Milligrams per dry standard cubic meter)	
	Grains per dry standard cubic foot	Opacity
Very large	34 (0.015)	10% (6-min.)
Large	69 (0.030)	10% (6-min.)
NOTE: All emission levels corrected to seven percent 0.		

5. Emission Guidelines for Municipal Waste Combustor Organics. The emission guidelines for the concentration of the dioxin/furan component of MWC organics discharged into the atmosphere from any designated facility located within a large or very large MWC plant are as follows:

MWC PLANT CAPACITY AND TYPE	Guideline emission level	
	Nanograms per standard cubic meter	Grains per billion dry standard cubic foot
Very Large (including very large RDF)	60	24
Large (except RDF stokers and coal/RDF mixed fuel-fired combustors)	125	50
Large RDF stokers and coal/RDF mixed fuel-fired combustors	250	100
NOTE: All emission levels corrected to seven percent O_2.		

6. Emission Guidelines for Municipal Waste Combustor Acid Gases. The emission guidelines for MWC acid gases, expressed as sulfur dioxide and hydrogen chloride contained in gases discharged to the atmosphere from any designated facility located within a large or very large MWC plant, are as follows:

MWC PLANT CAPACITY	Guideline emission level (percent reduction or parts per million by volume)	
	SO_2	HCl
Very large	70% or 30 ppmv	90% or 25 ppmv
Large	50% or 30 ppmv	50% or 25 ppmv
NOTE: All ppmv levels corrected to seven percent O_2. SO_2 emission levels and percent reductions are 24-hour geometric means.		

Either the applicable percent reduction or the parts per million by volume guideline, whichever is less stringent, is the guideline limit for a designated facility.

7. Emission Guidelines for Municipal Waste Combustor Operating Practices, Training, and Municipal Waste Combustor Operator Certification

a. The emission guidelines for the carbon monoxide concentration level for each designated facility located within a large or very large MWC plant are shown in Table 1.

TABLE 1

MWC Technology	Carbon monoxide emission level (parts per million by volume)[1]	Averaging time
Mass burn waterwall	100	4 hours
Mass burn refractory	100	4 hours
Mass burn rotary waterwall	250	24 hours
Modular starved air	50	4 hours
Modular excess air	50	4 hours
Refuse derived fuel stoker	200	24 hours
Bubbling fluidized bed combustor	100	4 hours
Circulating fluidized bed combustor	100	4 hours
Coal/RDF mixed fuel-fired combustors	150	4 hours

[1]Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to seven percent oxygen (dry basis). Calculated as an arithmetic average.

b. For approval, a state plan shall include the requirements for MWC operating practices, operator certification and training listed in LAC 33:III.3175, except as provided for under 40 CFR 53346, November 17, 1975, Part 60.24.

8. Reserved

9. Compliance and Performance Testing and Compliance Times

a. For approval, a state plan shall include, for designated facilities located within large and very large MWC plants, the compliance and performance testing methods listed in LAC 33:III.3175.I for large MWC plants, as applicable, except as provided for under 40 CFR 53346, November 17, 1975, Part 60.24. The compliance methods under LAC 33:III.3175.I for nitrogen oxide are not applicable to designated facilities located within large or very large MWC plants.

b. Reserved

c. Planning, awarding of contracts, and installation of equipment capable of attaining the level of the emission guidelines established under this Subsection are expected to be accomplished within 36 months after the effective date of state emission standards for MWC units.

10. Reporting and Recordkeeping Guidelines. For approval, a state plan shall include the reporting and recordkeeping provisions listed in LAC 33:III.3175, as applicable, except as provided for under 40 CFR 53346, November 17, 1975, Part 60.24.

B. Emission Guidelines and Compliance Times for Sulfuric Acid Production Units

1. Designated Facilities. The designated facility to which Subsection B.2 and 3 of this Section apply is each existing "sulfuric acid production unit" as defined in LAC 33:III.111.

2. Emission Guidelines. The emission guideline for designated facilities is 0.25 gram sulfuric acid mist (as measured by LAC 33:III.6045) per kilogram of sulfuric acid produced (0.5 pounds per ton), the production being expressed as 100 percent H_2SO_4.

3. Compliance Times. Planning, awarding of contracts, and installation of equipment capable of attaining the level of the emission guideline established under 40 CFR 60.33(a) can be accomplished within 17 months after the effective date of a state emission standard for sulfuric acid mist.

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

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

§3155. Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units (Subpart Dc)

* * *

B. Definitions. As used in this Section, all terms not defined herein shall have the meaning given them in LAC 33:III.3103 of this Chapter.

* * *

State or Federally Enforceable—all limitations and conditions that are enforceable by the administrative authority*, including the requirements of LAC 33:III.Chapters 31 and 51 or 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established under LAC 33:III.509 or 40 CFR 52.21.

* * *

E. Compliance and Performance Test Methods and Procedures for Sulfur Dioxide

* * *

6. Affected facilities subject to the percent reduction requirements under Subsection C.1 or 2 of this Section shall determine compliance with the SO_2 emission limits under Subsection C of this Section pursuant to Subsection E.4 or 5 of this Section, and shall determine compliance with the percent reduction requirements using the following procedures:

* * *

b. if coal, oil, or coal and oil are combusted with other fuels, the same procedures required in Subsection E.6.a of this Section are used, except as provided for in the following:

i. to compute the $\%P_s$, an adjusted $\%R_g$ ($\%R_g°$) is computed from $E_{ao}°$ from Subsection E.5.a of this Section and an adjusted average SO_2 inlet rate ($E_{ai}°$) using the following formula:

$$\%R_g° = 100\left[\frac{1.0 - E_{ao}°}{(E_{ai}°)}\right]$$

where:

$\%R_g°$ = the adjusted $\%R_g$, in percent;

$E_{ao}°$ = the adjusted E_{ao}, ng/J (lb/million Btu); and

$E_{ai}°$ = the adjusted average SO_2 inlet rate, ng/J (lb/million Btu).

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:150 (February 1992), amended LR 20: (March 1994).

§3550. Applicability and Designation of Affected Facility

A. The provisions of this Subchapter apply to each affected facility at any grain terminal elevator or any grain storage elevator, except as provided under LAC 33:III.3554.B. The affected facilities are each truck unloading station, truck loading station, barge and ship unloading station, barge and ship loading station, railcar loading station, railcar unloading station, grain dryer, and all grain handling operations.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (March 1994).

§3741. Standards: Closed Vent Systems and Control Devices

* * *

D. Flares used to comply with this Subchapter shall comply with the requirements of LAC 33:III.3131.B.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20: (March 1994).

James B. Thompson, III
Assistant Secretary

RULE

Department of Environmental Quality
Office of Solid and Hazardous Waste
Underground Storage Tanks Division

UST Registration (LAC 33:XI.301)(UT05L)

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 Underground Storage Tank Division Regulations, LAC 33:XI.301 (UT05L).

This rule reinstates provisions of the regulations which were unintentionally deleted due to a typographical error made at the time the Underground Storage Tank Regulations were amended in July, 1992. This language has been in effect since July, 1990. No new language is proposed. This rule will require that 1) new underground storage tanks (USTs) are registered within 30 days; 2) owners certify that USTs were installed properly; 3) installers certify that UST(s) were installed in accordance with the regulations and provide his/her DEQ-issued certificate number on the registration form; 4) persons acquiring USTs register within 30 days, and persons selling USTs notify the DEQ within 30 days; and 5) owner/operators not allow the placement of a regulated substance into a new UST system.

These regulations are to become effective upon publication in the *Louisiana Register*.

Title 33
ENVIRONMENTAL QUALITY
Part XI. Underground Storage Tanks
Chapter 3. Registration Requirements, Standards, and Fee Schedule
§301. Registration Requirements

* * *

[See Prior Text in A.1-3]

B. New UST Systems. Upon the effective date of these regulations, all owners of new UST systems (as defined in LAC 33:XI.103) must, within 30 days of bringing such tanks into use, register them on a form approved by the department. The following registration requirements apply to new UST systems:

1. All owners of new UST systems must certify, in the space provided on the department's approved registration form, compliance with the following requirements:

a. tank and piping installation in accordance with LAC 33:XI.303.A.4;

b. cathodic protection of steel tanks and piping in accordance with LAC 33:XI.303.A.1-2;

c. financial responsibility requirements under LAC 33:XI.Chapter 11; and

d. release detection requirements under LAC 33:XI.703.A-C.

2. All owners of new UST systems must ensure that the installer certifies on the registration form that the methods used to install the tanks and piping comply with the requirements of LAC 33:XI.303.A.4.a. Beginning January 20, 1992, registration forms shall include the name and department-issued certificate number of the individual exercising supervisory control over installation critical junctures (as defined in LAC 33:XI.1303) of a UST system.

3. No owner or operator shall allow a regulated substance to be placed into a new UST system that has not been registered.

C. All UST Systems. Beginning on the effective date of these regulations, any person who sells a tank intended to be used as a UST must notify the purchaser of that tank of the owner's registration obligations under this Section's requirements, specifically:

1. Any person who sells a UST system shall so notify the department in writing within 30 days after the date of the transaction.

2. Any person who acquires a UST system shall submit an amended registration form within 30 days after the date of acquisition.

3. A current copy of the registration form must be kept on-site or at the nearest staffed facility.

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, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20: (March 1994).

James B. Thompson, III
Assistant Secretary

RULE

Office of the Governor
Office of Veterans Affairs

Merchant Marine Bonus (LAC 4:VII.915)

The Office of Veterans' Affairs hereby adopts the following rules relative to the payment of a bonus to certain Louisiana citizens who served on active duty as a member of the Merchant Marines in World War II. Pursuant to the authority and provisions of Act 90 of the 1993 Regular Legislative Session, a bonus in the amount of $250 will be paid to these certain Louisiana citizens as authorized by the act and the Office of Veterans' Affairs shall have the authority for the distribution of the bonuses authorized. The executive director, with the approval of the Veterans' Affairs Commission, shall make rules and regulations as necessary for the proper administration of this Section.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 9. Veterans Affairs
Subchapter A. Veterans Affairs Commission
§915. World War II Merchant Marine Bonus Payments

A. Eligibility for the bonus shall be restricted to include only servicemembers who are Louisiana citizens and who served on active duty as a member of the Merchant Marines

in World War II any time during the period between September 16, 1940, through July 25, 1947, and received an honorable discharge or to the unremarried surviving spouse of each such servicemember who died while serving on active duty in the Merchant Marines during said period. For the purpose of administering this act, a citizen is defined as an individual who was a resident of Louisiana at the time of entry into the Merchant Marines.

B. Veteran must present proof of active duty and honorable discharge by submitting discharge papers (DD 214 or equivalent) to the Office of Veterans Affairs with the application for bonus payment. Unremarried surviving spouse must present proof of marriage and a report of casualty (DD 1300 or equivalent), or proof that veteran died of a service-connected disability between the dates of September 16, 1940, and July 25, 1947, as a result of active service in the Merchant Marines.

C. A former remarried surviving spouse is not eligible for the bonus payment. For the purpose of this act, a surviving spouse does not regain entitlement if she later terminates a remarriage.

D. If there is no surviving veteran or unremarried surviving spouse, then no bonus shall be paid.

E. A claim must be received by the Office of Veterans Affairs on or before July 1, 1999, in order for a bonus to be paid.

F. If any veteran or unremarried surviving spouse herein entitled to a bonus has received a bonus or gratuitous payment from any other state prior to making application to the Office of Veterans Affairs, then the amount of the bonus or gratuitous payment so received shall be deducted from the amount provided herein to be paid to each such person.

G. The bonuses and payments provided herein shall be completely exempt from all liability for any debt, tax, or obligation.

H. Bonus payments are not assignable.

I. Effective date for bonus applications shall be July 1, 1994.

AUTHORITY NOTE: Promulgated in accordance with Act 90, 1993 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 20: (March 1993).

Ernie P. Broussard
Executive Director

RULE

Department of Health and Hospitals
Office of Public Health

Sanitary Code—Tuberculosis Control (Chapter II)

The state health officer and the Office of Public Health of the Department of Health and Hospitals hereby promulgate stringent Tuberculosis Control Measures as mandated by Act No. 289 of the 1993 Regular Session amending and reenacting R.S.40:4(A)(2)(c).

These regulations are further authorized by R.S.40:5(1) as amended by Act No. 180 of the 1993 Regular Session, and by R.S.40:17 as amended by Act No. 190 of the 1993 Regular Session.

WHEREAS tuberculosis is increasing nationally as well as in this state, and resistant strains have caused large outbreaks in some New York and Florida hospitals and prisons; and

WHEREAS normal non-drug-resistant strains of tuberculosis may be fatal in less than one percent of the cases, it has been established that the new multiple-drug-resistant strains of tuberculosis have been *fatal* in up to 89 percent of the cases. It has also been established that failure of compliance with tuberculosis treatment increases the risk of development of resistant strains, and increases the probability of spread to others. It is therefore necessary to take serious steps to identify sources of TB in Louisiana and to strengthen and improve Louisiana's Tuberculosis Control Program in order to decrease the possibilities of the spreading of this resurgent disease.

Section 1. The following definition in paragraph 2:001 of Chapter II of the Sanitary Code, State of Louisiana is amended and revised to read:

Quarantine—the limitation of freedom of movement of such well persons or domestic animals as have been exposed to a communicable disease for a period of time equal to the longest usual incubation period of the disease, in such manner as to prevent effective contact with those not so exposed. *NOTE: in connection with the control of communicable diseases, the term "quarantine" is frequently used interchangeably with the term "isolation" as defined above in this paragraph.* At times, the two terms may be used together, as in an "isolation/quarantine order" pursuant to LSA-R.S.40:4(A)(13), and further pursuant to paragraphs 2:010-2:019 in the body of this Chapter in this Code pertaining to the Control of Diseases.

Section 2. A new Paragraph 2:014.1 is added to Chapter II of the Sanitary Code, State of Louisiana, as follows:

2:014.1 Special Tuberculosis Control Measures: Refer to Appendix A annexed at the end of this Chapter.

Chapter II Appendix A
Special Tuberculosis Control Measures

Louisiana is changing its method of treating tuberculosis due to recent recommendations of the federal Centers for Disease Control and Prevention as set forth in its *Morbidity and Mortality Weekly Report*, Volume 42, Issue RR-7, dated May 21, 1993. These new and revised recommendations have become necessary because the majority of tuberculosis patients on daily self-administered medications do not comply with a

full course of therapy which leads to drug resistance and secondary spread of the disease.

This appendix contains a step-wise approach for encouraging compliance with treatment and for managing the non-compliant patient. The steps in the process begin with a **Voluntary Patient Compliance Agreement**, meant to spell out the time and place of Directly-Observed Therapy negotiated between the healthcare provider and the patient and to inform the patient of the possible consequences of noncompliance with the course of therapy.

If the patient does not comply with the terms of this Agreement, a **Quarantine Order for Directly-Observed Therapy** follows. This order from the state health officer or his designee reinforces the need for compliance with therapy.

If the patient continues to be uncooperative, the state health officer or his designee may issue a formal **Quarantine Order for Hospitalization.** This assigns the patient to a specific hospital facility for care of tuberculosis as an inpatient, with detailed warning of the consequences of non-compliance with therapy. It is to be noted that the patient must agree to be transported to the selected hospital facility, and to further comply with the quarantine order to remain in the hospital until his/her condition improves, and the patient may be discharged and placed under a new Quarantine order for continued Directly Observed Therapy treatment, as needed, outside of the hospital facility's restrictive environment.

In certain cases, where the OPH Disease Intervention Specialist and Supervisor anticipate that a given uncooperative patient will refuse to be voluntarily transported to a hospital facility under a formal Quarantine Order for Hospitalization, the state health officer may authorize and instruct the OPH Disease Intervention Specialist Supervisor or other appropriate OPH official, to fill out a request for a **Court Order for Hospitalization**, and present it to the district attorney in the parish wherein the patient is known to be situated. (In rare instances, the district attorney may see that criminal charges for violation(s) of the Quarantine Order for Directly Observed Therapy are filed at this point, instead of the OPH requested civil court order.)

It is hoped that in most instances of initial non-compliance with the required treatment, an uncooperative patient will agree to be transported to a specific hospital facility for inpatient care under a formal quarantine order issued by the state health officer or his designee, without court intervention.

In the event a patient under a formal quarantine order for hospital care becomes uncooperative within the hospital facility's restrictive environment, or a patient continues to be non-compliant with therapy after isolation/quarantine by a civil court order, the hospital facility or state health officer may seek to have criminal charges filed pursuant to R.S. 40:6(B), and upon conviction, the patient may be sentenced to the hospital unit of a state prison and placed in the custody of the Department of Corrections.

This appendix contains suggested forms with instructions for the steps prior to the filing of criminal charges.

Louisiana is following the recommendations of the federal Centers for Disease Control and Prevention by placing all tuberculosis patients initially under a voluntary program of "Directly Observed Therapy" pursuant to a "Patient Compliance Agreement" signed by the patient. A sample "Patient Compliance Agreement" form follows:

VOLUNTARY PATIENT COMPLIANCE AGREEMENT

Plan of therapy for _____
Full Name

Date of birth _____ Social Security # _____
Whose residence is _____
Parish _____ Date this regimen begins _____

For the Patient: NOTE: All statements are to be read to patient (or patient may read).

1. You are being treated for suspected tuberculosis; therefore, it is essential that you take your medication.
2. To avoid long-term isolation or quarantine, you will be expected to follow your drug therapy schedule. No dose of medication is to be missed.
3. State law requires that the Office of Public Health assist you in controlling your disease. The only way to cure your disease is by regular use of drug therapy.
4. The following therapy schedule requires that you report to _____ _____ on _____ at _____ o'clock to receive your medications under supervision. The staff will work with you in arranging special schedules for your therapy as necessary. You will be expected to call _____ and report any difficulties in keeping your appointments.
5. Failure to comply with these guidelines may result in quarantine, involuntary confinement to a hospital or possible criminal charges for violations of quarantine.

(If patient states any barriers to compliance, list them here.)

I agree that I understand the above therapy schedule and will make every effort to comply with the full course of my therapy.

Patient's Signature _____
Date _____ _____
Public Health Nurse or Disease Inter. Spec.

Copy received by patient _____
Patient initials

SCHEDULE CHANGES

New schedule _____
Medical Reason/Other _____
Patient signature _____ Date _____
_____ Copy to patient _____
Public Health Nurse or Dis. Inter. Spec. Initials

In the event a particular tuberculosis patient fails to cooperate, as evidenced (for example) by failing to voluntarily appear timely at the place that was agreed upon in the Patient Compliance Agreement to take the required drugs, or otherwise interrupts and/or stops taking the anti-tuberculosis medication as prescribed, it may become necessary to issue a *formal* public health isolation or quarantine order to "Directly Observed Therapy" (DOT) meaning drugs taken in the presence of a designated health care provider at a specified place. In such cases, the patient is fully informed that a violation of the terms of the isolation or quarantine order to DOT may result in orders issued by the state health officer or his designee or agent, or by an order from a Louisiana court of competent jurisdiction, to a more restrictive environment for the management of uncooperative tuberculosis patients. A sample of a public health isolation or quarantine order to DOT follows:

SAMPLE QUARANTINE ORDER FOR DIRECTLY-OBSERVED THERAPHY

Date:

_____
_____
_____, LA 70__

RE: Quarantine Order for
Directly Observed Therapy

Dear _____:

This is to inform you that you are under quarantine to prevent the spread of your tuberculosis infection. The circumstances necessitating the specific terms of your quarantine are as follows:

1. You have been diagnosed as having active pulmonary tuberculosis, which could be spread to others when you cough.

2. You were diagnosed with pulmonary tuberculosis in _____,and had a positive sputum smear and culture for M. tuberculosis, which showed sensitivity to _____.

3. You have failed voluntary Directly Observed Therapy, as evidenced by _____
_____.

In order to protect the public from further unwarranted exposure to your infection, you are required to fully comply with these terms of your quarantine.

1. You will be placed on mandatory Directly Observed Therapy by the Regional Chest Clinician in _____. This regimen will require medications administered at the _____ Parish Health Unit. This therapy will continue until the state health officer determines that you are no longer likely to transmit your infection to others and have completed an adequate therapy regimen.

2. You will comply and cooperate fully with the treatment regimen prescribed for you.

3. Failure to comply with mandatory Directly Observed Therapy on an outpatient basis may require subsequent legal action. Failure for the purposes of this quarantine is defined as missing one or more doses of therapy during one month. This order will remain in force until the order is revoked or revised by the authority of the state health officer.

In view of the risk to the public health which would result from failure to keep your tuberculosis infection under control, any violation of the specified terms of your quarantine may force us to bring immediate action against you in court.

Please signify your intention to comply with terms of this order by signing the Statement of Intention which is attached. Return the Statement to me through the officer who delivers it to you.

I sincerely hope that you will have a rapid and uneventful recovery and that your tuberculosis can be classed as inactive before very long.

_____
_____, M.D.
State Health Officer

STATEMENT OF INTENTION TO COMPLY:

I, _____, have read the terms of my quarantine for control of tuberculosis, or have had them read to me. I have had a chance to ask questions about the terms of my quarantine and am satisfied that I understand them. For my own protection and the protection of the public, I agree to comply fully with the specified terms of my quarantine.

_____ _____
_____ Date

WITNESSED: _____ _____
(signature) (signature)

_____ _____
(print name) (print name)

cc: _____, M.D.
STATE HEALTH OFFICER

_____
EXECUTIVE OFFICER, ADMINISTRATION
DHH OFFICE OF PUBLIC HEALTH

_____
TUBERCULOSIS CONTROL SECTION
DHH OFFICE OF PUBLIC HEALTH

_____
BUREAU OF LEGAL SERVICES
DEPARTMENT OF HEALTH AND HOSPITALS

_____, R.N.
REGION __ DIS SUPERVISOR 1
DHH OFFICE OF PUBLIC HEALTH

_____ PARISH HEALTH UNIT

_____
DISTRICT ATTORNEY _____ PARISH
_____
_____, LA 70__

_____
SHERIFF, _____ PARISH
_____ PARISH COURTHOUSE
_____, LA 70__

A tuberculosis patient with a diagnosis of active tuberculosis who fails to comply with a public health isolation or quarantine order to Directly Observed Therapy may be ordered to a more restrictive environment for the management of uncooperative tuberculosis patients pursuant to the orders of the state health officer or his designee or agent directed to the patient, or by requesting a Louisiana court of competent jurisdiction for the issuance of an order placing the patient in a more restrictive environment. A sample of the state health officer's isolation or quarantine order to a more restrictive environment follows, along with a sample request for a court order:

SAMPLE QUARANTINE ORDER FOR HOSPITALIZATION

Date

_____

_____

_____, LA 70__

RE: Quarantine Order
For Hospitalization

Dear _____:

This is to inform you that you are under quarantine to prevent the spread of your tuberculosis infection. The circumstances necessitating the specific terms of your quarantine are as follows:

1. You have been diagnosed as having active pulmonary tuberculosis, which could be spread to others when you cough.
2. You were diagnosed with pulmonary tuberculosis on _____, and had a positive sputum smear and culture for M. tuberculosis, which showed resistance to _____.
3. You failed to comply with your prescribed therapy and failed mandatory Directly Observed Therapy under quarantine, as evidenced by _____.

In order to protect the public from further unwarranted exposure to your infection, you are required to fully comply with these terms of your quarantine for hospitalization.

1. You have been placed on treatment for tuberculosis and will remain hospitalized with subsequent transfer to Villa Feliciana Chronic Disease Hospital and Rehabilitation Center.
2. You will comply and cooperate fully with the treatment regimen prescribed for you.
3. Failure to comply with this order for you to remain hospitalized may result in CRIMINAL CHARGES filed against you and a warrant for your arrest. The CRIMINAL CHARGES would be a violation of your Tuberculosis Quarantine Order, R.S. 40:6(B). Upon trial, if convicted of this charge, you may be sentenced to the hospital unit of a state prison operated by the Department of Corrections. Please be guided accordingly.
4. This formal quarantine order will remain in force until the order is revoked or revised by the State Health Officer.

In view of the risk to the public health which would result from failure to keep your tuberculosis infection under control, any violation of the specified terms of your quarantine will force us to bring immediate action against you in court.

Please signify your intention to comply with terms of this order by signing the Statement of Intention which is attached. Return the Statement to me through the officer who delivers it to you.

I sincerely hope that you will have a rapid and uneventful recovery and that your tuberculosis can be classed as inactive before very long.

_____
_____, M.D.
STATE HEALTH OFFICER

STATEMENT OF INTENTION TO COMPLY:

I, _____, have read the terms of my quarantine for control of tuberculosis, or have had them read to me. I have had a chance to ask questions about the terms of my quarantine and am satisfied that I understand them. For my own protection and the protection of the public, I agree to comply fully with the specified terms of my quarantine. I also expressly understand that if I violate the terms of this quarantine order, I may be charged with a CRIME and can be SENTENCED TO PRISON.

_____ _____
Date

WITNESSED: _____ _____
(signature) (signature)

_____ _____
(print name) (print name)

cc: _____, M.D.
STATE HEALTH OFFICER

_____
EXECUTIVE OFFICER, ADMINISTRATION
DHH OFFICE OF PUBLIC HEALTH

_____
TUBERCULOSIS CONTROL SECTION
DHH OFFICE OF PUBLIC HEALTH

_____
BUREAU OF LEGAL SERVICES
DEPARTMENT OF HEALTH AND HOSPITALS

_____
REGION II DIS SUPERVISOR
DHH OFFICE OF PUBLIC HEALTH

_____
DISTRICT ATTORNEY _____ PARISH
_____
_____, LA 70__

_____
SHERIFF, _____ PARISH
_____
_____, LA 70__

_____
C/O LSU UNIT
EARL K. LONG HOSPITAL

_____ PARISH HEALTH UNIT

(The following "format" may be used by the District Attorney when the state health officer or his designee or agent requests help in handling an uncooperative person known to have active, infectious tuberculosis. The District Attorney may substitute any "format" of his/her preference, however. The general intent here is to provide the OPH Disease Intervention Specialist Supervisors [who will be the state health officer's designee in most cases] with an instrument to complete and submit to the District Attorney when a particular TB patient shows no intent to cooperate. The "format" of the instrument itself may have to be altered so as to present the facts of a particular case accurately.)

SAMPLE REQUEST FOR A COURT ORDER FOR HOSPITALIZATION

IN RE: _____1

NO._____2

_____3 JUDICIAL DISTRICT COURT PARISH OF _____4
FILED:_____5 _____6
DEPUTY

REQUEST FOR AN EMERGENCY PUBLIC HEALTH ORDER TO ISOLATE/QUARANTINE A TUBERCULOSIS PATIENT TO PROTECT THE PUBLIC HEALTH AND THE PATIENT

ON THE MOTION OF _____,7 a Disease Intervention Specialist Supervisor employed by the Office of Public Health of the Department of Health and Hospitals of the State of Louisiana and duly designated to act in these premises by the state health officer, appearing herein through the undersigned Assistant District Attorney, and moves pursuant to the provisions of LSA-R.S.40:3, 40:4A(13), 40:4B(4), 40:5(1), 40:6(C) and 40:17, and further pursuant to Paragraphs 2:010-2:019 of Chapter II of the State Sanitary Code, and respectfully suggests to the Court that:

I.

_____,1 to the best of my knowledge and belief is an imminent danger and/or threat to the health and/or lives of individuals in this parish and state and is now in need of immediate medical examination and treatment in a restricted environment in order to protect the individuals of this parish and state as well as the subject individual person from physical harm and/or from spreading active and infectious tuberculosis.

II.

_____1 is known to be located at _____,8 and has been encouraged to voluntarily submit to necessary medical examination and to seek and receive necessary treatment, but is unwilling and uncooperative in these regards.

III.

Mover has contacted _____ _____,9 concerning the danger and/or imminent threat posed by the subject individual,_____,1 and is informed that _____ _____,9 is prepared to receive the patient and provide housing in a restrictive environment allowing immediate examination and care for tuberculosis and the said facility is further prepared to provide any necessary anti-tuberculosis medication.

IV.

Mover asserts that the imminent danger and/or threat to the public health is based on mover's knowledge that _____,1 is infected with active, infectious tuberculosis as evidenced by_____ _____ _____ _____.10

WHEREFORE, mover prays that an emergency public health order be issued to locate, detain and transport _____,1 to _____,9 without delay.

Respectfully submitted,
_____16
Assistant District Attorney
_____3 Judicial District

A F F I D A V I T

STATE OF LOUISIANA
PARISH OF _____4

BEFORE ME, the undersigned authority, personally came and appeared_____,7 who, being first duly sworn, deposed: That ___11 is the Disease Intervention Specialist Supervisor employed by the Office of Public Health of the Department of Health and Hospitals in the regional area including _____,4 and ___11 is the mover in the above and foregoing motion, and that all of the allegations of fact made therein are true and correct to the best of mover's knowledge, information and belief.

_____12

SWORN TO AND SUBSCRIBED BEFORE ME
THIS _____13 DAY OF _____,14 19__.15
_____16
NOTARY PUBLIC

ORDER

IT IS ORDERED, ADJUDGED AND DECREED that _____ _____1 be detained and placed in the protective custody of a law enforcement officer and transported to the _____ _____9 for such medical examinations, testing and treatment for active and infectious tuberculosis and be detained at that facility until the existing imminent danger and/or threat to the public health has subsided.

IT IS FURTHER ORDERED that any law enforcement officer may execute this order by detaining and transporting _____ _____1 to the designated treatment facility named above without delay.

JUDGMENT read, rendered and signed this _____day of _____, 19__, at _____o'clock, at _____, Louisiana.

_____
JUDGE

SUBSTITUTE FOR NUMBERS IN ABOVE FORM

1. *Name of the person in need of treatment.*
2. *Court personnel will complete this item.*
3. *District Attorney's office will complete this item.*
4. *District Attorney's office will complete this item.*
5. *Court personnel will complete this item.*
6. *Court personnel will complete this item.*
7. *Insert the name of the Disease Intervention Specialist Supervisor who is submitting the matter to the District Attorney's office.*
8. *Insert the person in need of treatment's complete address (which may be in care of a relative's address, or even a "halfway house" or possibly the person may be a patient in a hospital refusing treatment and demanding discharge. Just try to insert sufficient information to enable the deputy sheriff or other law enforcement officer to find and take the party into protective custody, etc.)*
9. *Insert the name of the physician or administrator and the name and address of the designated TB treatment facility.*
10. *Here it will be necessary for a concise statement of the problem presented by the TB patient whose condition is diagnosed as active and infectious TB.*
11. *Insert "he or she".*
12. *The Disease Intervention Specialist Supervisor must sign his or her name exactly as it appears in the form above, and this should be done in the presence of a Notary, who may be the Assistant District Attorney who will handle the case in court.*
13. *- 16. Will be completed by the District Attorney's office.*

A tuberculosis patient who has been ordered to be isolated or quarantined to a more restrictive environment than Directly-Observed Therapy and who fails to comply with the express terms and provisions of the isolation/quarantine order to a more restrictive environment issued by the state health officer or his designee, or by the orders of a Louisiana court of competent jurisdiction, shall be considered as having violated the provisions of the State Sanitary Code and be subject to criminal prosecution pursuant to R.S. 40:6(B), and if so charged and convicted, further subject to being sentenced to the hospital unit of a state prison operated by the Department of Corrections, and to remain so confined so long as the prisoner's tuberculosis condition is active, in order to assure the public is protected from unwarranted exposure to the disease.

End of Appendix A.

Section 3. Chapter II, Sanitary Code, State of Louisiana, Sections 2:022-2:024, 2:025-1 and 2:026 are amended to read as follows:

2:022 All persons prior to or at the time of employment at any facility requiring licensing by the Department of Health and Hospitals or any day care center or any person prior to or at the time of commencing volunteer work involving direct patient care at any facility requiring licensing by the Department of Health and Hospitals shall be free of tuberculosis in a communicable state as evidenced by either (1) a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, (2) a normal chest x-ray, if the skin test is positive, or (3) a statement from a licensed physician certifying that the individual is non-infectious if the x-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

2:023 Any employee or volunteer at any facility requiring licensing by the Department of Health and Hospitals or any employee at any day care center who has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a chest x-ray other than normal, in order to remain employed, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

2:024 Any employee or volunteer of any facility requiring licensing by the Department of Health or Hospitals or any employee of any day care center who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, in order to remain employed or continue to work as a volunteer, shall be retested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, remains negative. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in Section 2:023.

2:025-1 On or before October 1 of each year, the operator of each day care center, nursery school, or residential facility enrolling or housing any child 18 years or under, shall submit a preliminary immunization status report of all children enrolled or housed as of that date. Forms for submittal shall be provided by the state health officer, and shall include identifying information for each child, and for each dose of vaccine received by the child since birth. Any child exempt from the immunization requirement shall also be identified, and the reason for exemption given on the form. After review of the form(s) by the state health officer or his or her designee, the day care center, nursery school, or residential facility operator will notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed children, who are not compliant with the immunization requirement of Section 2:025 of this Code.

2:026 Any person (adult or child) admitted to any nursing home or other residential facility shall have a complete history and physical examination by a licensed physician within 30 days prior to or 48 hours after admission, except that any resident who has complied with this provision shall be exempt from re-examination if transferred to another residential facility provided the record of examination is transferred to the new facility.This examination shall include laboratory tests as indicated by the history and physical examination. A purified protein derivative intradermal skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be given to all residents under 35 years of age and a purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, plus a chest x-ray to all residents over 35 years of age, no more than 30 days prior to admission to any nursing home or other residential facility. If the skin test is not done prior to admission, it may be placed within 72 hours after admission and interpreted at the appropriate time. A repeat skin test is not required if the patient has a chest x-ray with no abnormalities indicative of tuberculosis and has had a negative skin test documented within one year of admission or if the patient has a previously-documented positive skin test. A record of the admission history, physical examination, purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, chest x-ray, and laboratory tests shall be a part of the permanent record of each resident. No resident with evidence of active tuberculosis shall be admitted unless the examining physician states that the resident is on an effective drug regimen, is responding to treatment, and presents no imminent danger to other patients or employees, or unless the facility has been specifically cleared by the Office of Public Health and the Department of Health and Hospitals to house patients with active tuberculosis.

Section 4. New sections 2:014-2-2:014-3, 2:026-1, and 2:033 are added to Chapter II of the Sanitary Code, State of Louisiana, as follows:

2:014-2 Persons with tuberculosis in a communicable state or suspected of having tuberculosis in a communicable state who are cared for in hospitals and nursing homes shall be cared for in rooms with negative air pressure and either 1) at least six changes of room air per hour accomplished by exhaust ventilation, or 2) equivalent circulation and treatment

by ultraviolet light treatment, "air scrubber", or equivalent. If the patient is not in a room with proper ventilation and is unable or unwilling to cover his/her cough, then exposed persons shall wear proper masks, which filter all particles larger than one micron, in order to prevent the spread of infectious respiratory droplets.

2:014-3 Rooms used for aerosolized pentamidine treatments or for aerosol treatments designed to induce sputum shall have negative air pressure and at least six changes of room air per hour accomplished by exhaust ventilation.

2:026-1 Any resident who is a case or an asymptomatic carrier of a communicable disease which may pose a serious risk to other patients or employees shall not be admitted except under the supervision of the state health officer or his agent.

2:033 HIV/AIDS All persons with Acquired Immunodeficiency Syndrome (AIDS) or known to be infected with the Human Immunodeficiency Virus (HIV), in the process of receiving medical treatment related to such condition, shall be screened for tuberculosis in a communicable state, with screening to include a chest x-ray. Sputum smear and culture shall be done if the chest x-ray is abnormal or if the patient exhibits symptoms of tuberculosis. Screening for tuberculosis shall be repeated as medically indicated.

Section 5. A new section is added to Chapter XVII of the Sanitary Code, State of Louisiana, as follows:

17:029 All students in the health care professions shall be free of tuberculosis in a communicable state as evidenced by either (1) a negative purified protein derivative skin test, five tuberculin unit strength, given by the Mantoux method, (2) a normal chest x-ray if the skin test is positive or (3) a statement from a Louisiana licensed physician that the person is noninfectious to others if the chest x-ray is other than normal. If the student has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a chest x-ray other than normal, the student shall complete a course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or present a signed statement from a Louisiana licensed physician stating that chemotherapy for tuberculosis is not indicated. In any case, the student shall not be denied access to an institutional learning experience or work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

Section 6. New sections are added to Chapter XVIII of the Sanitary Code, State of Louisiana, as follows:

18:021 Any person entering any Louisiana state prison as an inmate for forty-eight hours or more shall be screened for tuberculosis with a purified protein derivative skin test, five tuberculin unit strength, given by the Mantoux method, and a chest x-ray if the skin test is positive. If the individual is known to be infected with the human immunodeficiency virus (HIV) or has acquired immunodeficiency syndrome (AIDS), he or she shall be required to have a chest x-ray in addition to a skin test for tuberculosis, regardless of the skin test results. If an individual has a positive skin test or positive x-ray, he or she shall be evaluated by a physician to determine whether he or she should receive a course of chemotherapy for tuberculosis. If evaluation is desired before 48 hours, a chest x-ray is acceptable for screening.

18:022 Any person entering any Louisiana parish jail as an inmate for fourteen days or more shall be screened for tuberculosis, where funding is available, with a purified protein derivative skin test, five tuberculin unit strength, given by the Mantoux method, and a chest x-ray if the skin test is positive. If the individual is known to be infected with the human immunodeficiency virus (HIV) or has acquired immunodeficiency syndrome (AIDS), he or she shall be required to have a chest x-ray in addition to a skin test for tuberculosis, regardless of the skin test results. If an individual has a positive skin test or positive x-ray, he or she shall be evaluated by a physician to determine whether he or she should receive a course of chemotherapy for tuberculosis. If evaluation is desired before 48 hours, a chest x-ray is acceptable for screening.

Section 7. New sections 19:006-1 and 19:006-2 are added to Chapter XIX of the Sanitary Code, State of Louisiana, as follows:

19:006-1 Persons with tuberculosis in a communicable state or suspected of having tuberculosis in a communicable state shall be cared for in isolation rooms with negative air pressure and either 1) at least six changes of room air per hour accomplished by exhaust ventilation, or 2) equivalent circulation and treatment by ultraviolet light treatment, "air scrubber" or equivalent. If the patient is not in a room with proper ventilation and is unable or unwilling to cover their cough, then exposed persons shall wear proper masks, which filter all particles larger than one micron, in order to prevent the spread of infectious respiratory droplets.

19:006-2 Rooms used for aerosolized pentamidine treatments or for aerosol treatments designed to induce sputum shall have negative air pressure and at least six changes of room air per hour, accomplished by exhaust ventilation.

Section 8. A new section, 20:003-1 is added to Chapter XX of the Sanitary Code, State of Louisiana, as follows:

20:003-1 Persons with tuberculosis in a communicable state or suspected of having tuberculosis in a communicable state shall be cared for in isolation rooms with negative air pressure and either 1) at least six changes of air per hour accomplished by exhaust ventilation, or 2) equivalent circulation and treatment by ultraviolet light treatment, "air scrubber", or equivalent. If the patient is not in a room with proper ventilation and is unable or unwilling to cover his/her cough, then exposed persons shall wear proper masks, which filter all particles larger than one micron, in order to prevent the spread of infectious respiratory droplets.

Rose V. Forrest
Secretary

RULE

Department of Health and Hospitals
Office of the Secretary

Annual Service Agreement

The Department of Health and Hospitals, Office of the Secretary, hereby adopts the following rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 46:701 et seq., as amended and reenacted by Act 390 of 1991.

Annual Service Agreement

Introduction

This service agreement for State Fiscal Year 1993-94 is entered into by the Department of Health and Hospitals (DHH) and the Louisiana Health Care Authority (LHCA) in compliance with R.S. 46:701 et seq., as amended and reenacted by Act 390 of 1991.

I. Definitions

Licensed Beds—the number of beds in each medical center licensed by the Bureau of Health Services Financing and certified for participation in the Medicaid and Medicare programs.

Medically Indigent—any bona fide resident of the state of Louisiana whose family unit size and gross income is less than or equal to 200 percent of the Federal Poverty Income Guidelines for that size family unit, rounded up to the nearest thousand dollars.

Overcollections—any monies from Medicare, Medicaid or other third party payor, or from direct patient payments, collected by or on behalf of the medical centers operated by the LHCA in excess of the amounts budgeted in the General Appropriations bill for FY 1993-94, as enacted, for operating expenses, as certified by the commissioner of administration and the Joint Legislative Committee on the Budget.

II. General Agreement

The Louisiana Health Care Authority acknowledges that the Department of Health and Hospitals is legally responsible for the development and provision of health care services for the uninsured and medically indigent citizens of Louisiana, as well as preventative health services for the entire population.

The LHCA agrees to provide inpatient and outpatient hospital services on behalf of the Department of Health and Hospitals. The LHCA acknowledges that the provision of services to the medically indigent, to the uninsured and to others with problems of access to health care is its highest priority.

DHH agrees to work cooperatively with the authority to provide acute mental health services at authority facilities, in accordance with a Memorandum of Understanding between DHH and the LHCA.

III. Provision of Adequate Health Care Services

In accordance with the intent of Act 390 of 1991, the Louisiana Health Care Authority will strive to provide health services of sufficient quality and volume to meet the needs of the uninsured and medically indigent citizens of Louisiana. The LHCA and DHH agree that for FY 1993-94, adequate services shall be considered to consist of the following:

A. Those major services that are available at the medical centers on June 30, 1993 to any bona fide resident and taxpayer of the state of Louisiana determined to be uninsured, underinsured, or medically indigent and that are funded in the General Appropriation bill for FY 1993-94, provided that such appropriated funds are made available to the medical centers.

B. Adequate service provision shall also require that the medical centers maintain policies of access to services governed by the following:

1. The medically indigent or uninsured shall be afforded first priority for admission for any form of treatment available at the particular medical center.

2. Those persons who are determined not to be medically indigent or uninsured shall be admitted on a space available basis and shall be reasonably charged for treatment or service received.

3. Emergency treatment shall not be denied to anyone.

IV. Reduction, Elimination or Relocation of Services

A. The LHCA shall secure written approval from the secretary of DHH at least 60 days in advance of any reduction, elimination or relocation to another medical center of any major programs or services, or establishment of Centers of Excellence that require shifting of major services provided on the date of this agreement. DHH will not arbitrarily withhold approval as long as appropriate services continue to be provided and the change does not adversely effect any of the DHH's budget units.

B. The LHCA agrees not to construct, operate or fund a health care facility, or substantial portion thereof, which primarily treats insured patients other than those covered by Medicare and Medicaid.

V. Service Improvement and Development

The LHCA recognizes the need to improve and expand services in the medical centers in order to more fully meet the health care needs of the uninsured and medically indigent citizens of Louisiana. The authority will work to improve access to care, placing highest priority on the following:

A. improved access to prenatal and HIV clinics in every medical center;

B. reduced waiting times for all outpatient services for which there exist medically inappropriate delays in scheduling appointments;

C. improved access to emergency services;

D. LHCA shall not develop new programs or major program expansions in the areas of public health, substance abuse, mental health, or mental retardation without the concurrence of DHH;

E. in accordance with recognized primary care needs, as identified by state and federal criteria, the DHH Primary Care Access Plan, the State Rural Health Care Plan, the LHCA Strategic Plan and other mutually agreed upon priorities, LHCA may implement new primary health clinics only after a systematic determination that the new services are needed by the population to be served and after thorough coordination with DHH.

This shall be accomplished by a joint DHH/LHCA planning task force. No new primary care clinics shall be presented to the LHCA board for approval until such

implementation has received the prior written approval of the secretary of DHH and the CEO of the LHCA;

F. the LHCA medical centers will provide HIV testing and treatment services consistent with Act 634 of 1991, the DHH Services Plan and with funding provided through a separate HIV agreement with DHH. The DHH HIV Program Office in the OS/Bureau of Policy and Program Development will provide the LHCA with planning, technical assistance and monitoring of AIDS testing and treatment services and ambulatory care sites, as specified in the HIV Agreement between the two agencies. LHCA shall coordinate the development of new or expanded HIV outpatient programs with DHH.

VI. Financing Arrangements

A. DHH agrees not to adjust interim Medicaid payment rates, target rates, disproportionate share formulas, or to amend the Medicaid State Plan as it relates to inpatient and outpatient hospital services, without timely notice to the LHCA CEO.

B. LHCA agrees not to submit any Budget Adjustment (BA-7) request to DOA which increase the expenditure authority of its facilities without prior notice to the secretary of DHH.

C. DHH agrees not to submit any BA-7s to DOA where the means of financing would reflect use of unbudgeted overcollections from the LHCA without prior notice to the LHCA chief executive officer.

D. DHH and LHCA agree that prior to the March meeting of the Joint Legislative Committee on the Budget a meeting will be held to determine the amount of overcollections, if any, to be transferred from the Louisiana Health Care Authority to the Department of Health and Hospitals, as required by law.

E. LHCA agrees to provide DHH with monthly reports detailing collections by source of payment for each of its medical centers.

F. With regard to the liability for payment for services by those inpatients who are classified as self-pay, the LHCA agrees to adhere to DHH Policy No. 4600-77 (DHH Liability Limitation Policy), until such time as a revised policy may be promulgated by the authority through the Administrative Procedure Act.

G. Costs associated with the transition from DHH to LHCA administration of the medical centers and not otherwise specified in this agreement will be paid by the agency that is budgeted funds to cover those costs. Where a cost may be incurred in an area in which there is an incomplete functional separation between DHH and LHCA, each agency will bear its proportionate share of costs, based upon the approved cost allocation plan for the particular unit or upon another appropriate methodology for determining proportionate cost, as agreed by the two agencies.

H. LHCA shall not shift monies specifically earmarked in the budget process to alternative uses without prior written approval from the secretary of the Department of Health and Hospitals.

This includes outpatient clinic services, HIV outpatient services, and nurse stipends.

I. LHCA is to provide a 90-day notice if they intend to cancel any operational service agreement with DHH facilities that could adversely affect the DHH facilities budget (i.e., laundry agreements).

VII. Annual Revision of Service Agreement

DHH and the LHCA agree to revise this service agreement on an annual basis, as required by law, and to promulgate the agreement through the Administrative Procedure Act. The draft annual agreement shall be published in the *Louisiana Register* each year, in order for significant changes to be considered in the budget process for the ensuing fiscal year.

Rose V. Forrest
Secretary
Health and Hospitals

William B. Cherry, M.D.
Chief Executive Officer
Health Care Authority

RULE

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

Drug Screening Inspection and Certification Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends the current regulations governing approval of drug screening laboratories in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. Pursuant to Act 1036 of the 1990 Legislature, the bureau adopted a rule on November 20, 1991 specifying the regulations to govern its approval of all drug screening laboratories in this state. The rule was published in the November 20, 1991 issue of the *Louisiana Register* (Volume 17, No. 11, pages 1109-1114). Subsequently, Act 878 of the 1993 Regular Session of Louisiana Legislature amended R.S. 49:1008(A) relative to the department's approval of drug testing in this state. This Act mandates that the department inspect and certify screening laboratories performing initial drug testing and authorizes the imposition of a fee not to exceed $250 to fund the certification and inspection process. In addition, the bureau has determined the need to revise current regulations concerning the required time period from receipt of the specimen for testing and the actual text performance on that specimen in certain proficiency testing requirements. Therefore, the bureau amends the following rule.

Rule

The Bureau of Health Services Financing amends its current regulations governing the inspection, approval and certification of drug screening laboratories conducting initial drug testing.

I. Fees. An annual inspection fee of $250 will be levied on drug screening laboratories.

II. Programmatic Changes

A. Initial screening shall be completed within two working days following receipt of the specimen. If initial screening cannot be completed within two working days, the specimen shall not be accepted and shall be sent to another laboratory for screening.

B. Proficiency Testing

1. The laboratory must assure that proficiency testing samples are analyzed using the same techniques as those employed for screening unknown specimens.

2. The laboratory must maintain an overall testing event score of 100 percent for performance to be considered satisfactory.

3. Laboratories may participate in commercially available proficiency testing programs that are currently available. Examples of such programs include the College of American Pathologists (CAP), American Association of Clinical Chemistry (AACC), Forensic Urine Drug Testing or Urine Toxicology and American Association of Bioanalysts, (AAB).

Rose V. Forrest
Secretary

RULE

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

Facility Need Review—Downsizing ICF/MR Facilities

The department hereby adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to R.S. 40:2116. The rules governing the Facility Need Review Process, as originally published in the January 20, 1991 issue of the *Louisiana Register* (Vol. 17, No. 1, pages 61-67) and in subsequent volumes as required by amendments thereto, are being amended. Amendments which generally address the provisions of this proposed rule were adopted through emergency rulemaking on November 1, 1993 and were published in the November 20, 1993 issue of the *Louisiana Register* (Vol. 19 No. 20, pages 1407-1408).

The department continues to strive toward providing an array of residential living options designed to prevent, remediate, or reduce the effects of developmental delays and disabilities. To enhance this array of services, a mechanism is needed for requesting and evaluating proposals to develop beds made available by downsizing large state-owned residential facilities. Therefore, the Bureau of Health Services Financing has changed the Facility Need Review Process to allow for the issuance of solicitations of offers, as well as the evaluation of proposal offerings for these community and group home beds. The bureau is also proposing to change the Facility Need Review Process with respect to which Regional Office for Citizens with Developmental Disabilities reviews and evaluates proposals to downsize private facility beds to privately-owned group or community homes and state-owned facility beds downsized to state-owned group or community homes.

Rule

The Bureau of Health Services Financing repeals Section 12502, Subsection A, Number 6 and adopts the following as Section 12502, Subsection A, Number 6: Exception for beds approved from downsizing large residential ICF/MRs (16 or more beds).

a. A facility with 16 or more beds which voluntarily downsizes its enrolled bed capacity in order to establish a group or community home will be exempt from the Facility Need Review application process and from the bed need criteria. Beds in group and community homes which are approved under this exception are not included in the bed-to-population ratio or occupancy data for group and community homes approved under the Facility Need Review Program.

b. Any enrolled beds in the large facility will be disenrolled from the Title XIX Program upon enrollment of the same number of group or community home beds.

c. Prior approval of all Medicaid recipients for admission to facilities in beds approved to meet a specific disability need identified in a solicitation of offers issued by the department is required from the Office of Citizens with Developmental Disabilities before admission.

d. State-Owned Facility Beds Downsized to Develop Community or Group Home Beds not Owned by the State.

i. When the department intends to downsize the enrolled bed capacity of a state-owned facility with 16 or more beds in order to develop one or more group or community home beds not to be owned by the state, a Solicitation of Offers (SOO) will be issued. The SOO will indicate the parish or region in need of beds, the number of beds needed, the date by which the beds are needed to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining the need for these beds.

ii. The SOO will be issued through the press (nearest major metropolitan newspaper), and will specify the dates during which the department will accept applications.

iii. No applications will be accepted under these provisions unless the department declares a need and issues a solicitation. Applications will be accepted for expansion of existing facilities and/or for the development of new facilities.

iv. Once submitted, an application cannot be changed; additional information will not be accepted.

v. The department will review the proposals and independently evaluate and assign points to each of the following 10 items on the application for the quality and adequacy of the response to meet the need of the project:

(a) work plan for medicaid certification;

(b) availability of the site for the proposal;

(c) relationship or cooperative agreements with other health care providers;

(d) accessibility to other health care providers;

(e) availability of funds; financial viability;

(f) experience and availability of key personnel;

(g) range of services, organization of services and program design;

(h) methods to achieve community integration;

(i) methods to enhance and assure quality of life;

(j) plan to ensure client rights, maximize client choice and family involvement.

vi. A score of 0-4 will be given to the applicant's response to each item using the following guideline:

0 = inadequate response
1 = marginal response
2 = satisfactory response
3 = above average response
4 = outstanding response

vii. If there is a tie for highest score for a specific facility/beds for which the department has solicited offers, a comparative review of the top scoring proposals will be conducted. This comparative review will include prior compliance history. In the case of a tie, the department will make a decision to approve one of the top scoring applications based on comparative review of the proposals.

viii. If no proposals are received which adequately respond to the need, the department may opt not to approve an application.

ix. At the end of the 90-day review period, each applicant will be notified of the department's decision to approve or disapprove the application. However, the department may extend the evaluation period for up to 60 days. Applicants will be given 30 days from the date of receipt of notification by the department in which to file an appeal. (Refer to Section 12505.c, Appeal Procedures.)

x. The issuance of the approval for the proposal with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of any administrative appeal. All administrative appeals shall be consolidated for purposes of the hearing.

xi. Proposals approved under these provisions are bound to the description in the application with regard to type of beds and/or services proposed as well as to the location as defined in the solicitation made by the department. Approval for Medicaid shall be revoked if these aspects of the proposal are altered. Beds to meet a specific disability need approved through this exception must be used to meet the need identified.

e. Private Facility Beds Downsized to Privately Owned Group or Community Homes and State Owned Facility Beds Downsized to State-Owned Group or Community Homes

i. Facilities to whom these provisions apply should contact the regional Office of Citizens with Developmental Disabilities in the region where the proposed community or group home beds will be located. The regional office will review and evaluate the proposals, and recommend approval or disapproval to the Facility Need Review Program.

ii. The Office of Citizens with Developmental Disabilities will send a copy of the application with recommendations and comments to the Facility Need Review Program; the Facility Need Review Program will review the proposal, consider the recommendations, and issue notification to the applicant of approval or disapproval. A copy of the notification will be sent to the Provider Enrollment office in the Health Standards Section. The beds will not be enrolled in Medicaid without the approval of the Facility Need Review Program.

Rose V. Forrest
Secretary

RULE

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

Medicaid Pediatric Immunizations Provisions

(*Editor's note*: The text of the following rule contained typographical errors when published as a notice of intent in the December, 1993 *Louisiana Register*, p. 1628. Corrections have been incorporated into the final rule text below.)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Bureau of Health Services Financing does not reimburse providers for a single-antigen vaccine and its administration if a combined-antigen vaccine is medically appropriate and the combined-antigen vaccine is approved by the secretary of the United States Department of Health and Human Services.

Rose V. Forrest
Secretary

RULE

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

Nursing Facility—Infectious Disease—Tuberculosis

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. A notice of intent on the bureau's proposed criteria for the reimbursement of nursing facility—infectious disease—tuberculosis level of care services was published in the July 20, 1993 issue of the *Louisiana Register* with a public hearing held on August 23, 1993. Subsequently on December 20, 1993, the department provided public notice of its revised proposed criteria and the date of the second public hearing, January 20, 1994, on this issue. The following rule is the result of these procedures and governs the nursing facility—infectious disease—tuberculosis level of care services for persons who meet the following criteria for multidrug resistant tuberculosis.

Rule

The Bureau of Health Services Financing has adopted the following criteria for the provision of the nursing facility—infectious disease—tuberculosis level of care services for persons with multidrug resistant tuberculosis.

I. Determination of the Necessity for the Nursing Facility—Infectious Disease—Tuberculosis Level of Care

The patient shall:

1. be referred to the nursing home only by the TB Section of the Office of Public Health;
2. have a diagnosis of active tuberculosis of the respiratory tract;
3. have an infection caused by the Mycobacterium tuberculosis or Mycobacterium bovis, but not by other mycobacterial species (atypical TB);
4. require 24-hour inpatient specialized skilled nursing care;
5. be treated under the umbrella of guidelines from the TB Section of the Office of Public Health and monitored by the regional TB clinician;
6. require that immediate isolation procedures be initiated and that the patient not be released from isolation until three sputum smears collected on consecutive days have been negative for acid-fast bacilli. Thereafter, sputum will be monitored at least biweekly or whenever symptoms recur or worsen. If the sputum smear again becomes positive for acid-fast bacilli, isolation will be immediately reinstituted.
7. be admitted under quarantine by the public health officer and be isolated while on this level of care;
8. have meals brought to the isolation unit;
9. have 24-hour security guard when needed;
10. be discharged from this level of care by the medical director of the nursing home with the concurrence and advise of the regional TB clinician.

II. Nursing Facility Requirements

The nursing facility shall meet the following conditions.

1. The nursing facility shall be approved by the TB Section of the Office of Public Health to care for SNF-ID-Tuberculosis patients.
2. The nursing facility's approval from the Office of Public Health shall indicate that the facility has appropriate "Source-Control Methods" ventilation systems to prevent TB bacilli transmission in accordance with federal, state, and local regulations for environmental discharges.
3. The nursing facility shall monitor at appropriate intervals the ventilation system to maintain effective control of possible transmission of the TB bacilli.
4. The nursing facility shall initiate, update and maintain vigorous infection control policy and procedures to manage the infectious/contagious disease process according to current trends established by the Centers for Disease Control and Prevention.
5. The nursing facility shall employ or contract with an engineer or other professional with expertise in ventilation or other industrial hygiene. This person shall work closely with the Infection Control Committee in the control of airborne infections.
6. The nursing facility shall achieve, maintain and document compliance with all requirements outlined in the Minimum Standards for Nursing Facilities and the enhanced requirements for NF-ID.
7. The nursing facility shall inform the regional TB clinician if the patient becomes intolerant of TB medications or refuses TB medications.

III. Requirements for Participation for the Nursing Facility

1. The facility shall be enrolled as a provider of the Nursing Facility/Infectious Disease (NF-ID) program with appropriate provider agreements to participate.
2. The facility shall be currently enrolled to provide nursing facility services to the level of care designation for the treatment of tuberculosis.
3. The facility has been designated by TB Control of the Office of Public Health to provide NF-ID-Tuberculosis care to those patients referred by them.

IV. Medical Certification Requirements in Addition to the Forms 148, 90-1 and PASARR for Participating Nursing Facilities

1. The facility data submission shall follow the guidelines established for the level of care.
2. The following additional information requirements must be met:

a. outside information consisting of summary of drug therapy prior to admission, past and present history of nontubercular illness such as diabetes, previous drug reactions, laboratory test results and any previous eye or VIII Cranial Nerve tests (auditory and equilibrium);

b. physician orders specific to infection control for tuberculosis and other infectious diseases, including but not limited to, HIV and Staphylococcus aureus/Methicillin resistant Staph aureus infections.

c. documentation to support that appropriate isolation procedures were implemented on admission.

V. Reimbursement Requirements

1. The 90-L, level of care and PASARR must be approved by the Department of Health and Hospitals, Health Standards Section.
2. Request for change in level of care when the patient is discharged from the NF-ID-Tuberculosis level must be submitted within five working days.
3. The NF-ID-TB reimbursement rate is not applicable to persons who have a nonpulmonary/respiratory diagnosis or who have atypical mycobacteriosis or who have a conversion of skin test without positive sputum.
4. The NF-ID-TB reimbursement rate will be paid during a hospital stay up to the customary 10-day bed hold policy.

Rose V. Forrest
Secretary

RULE

Department of Health and Hospitals
Office of the Secretary
Medical Disclosure Panel

Informed Consent (LAC 48:I.2301)

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, Medical Disclosure Panel, hereby amends 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 the *Louisiana Register*, pages 1391-1399, December 1992.

TITLE 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Chapter 23. Informed Consent
§2301. Disclosure of Risks/Patient Consent

Pursuant to R.S. 40:1299.40E, the Louisiana Medical Disclosure Panel recommends use of the following general form, or use of a substantially similar form, for disclosure of risks and hazards related to medical care and surgical procedures.

PATIENT CONSENT TO MEDICAL TREATMENT OR SURGICAL PROCEDURE AND ACKNOWLEDGMENT OF RECEIPT OF MEDICAL INFORMATION

INFORMATION ABOUT THIS DOCUMENT READ CAREFULLY BEFORE SIGNING

TO THE PATIENT: You have been told that you should consider medical treatment/surgery. Louisiana law requires us t tell you (1) the nature of your condition, (2) the general nature of the medical treatment/surgery, (3) the risks of the propose treatment/surgery, as defined by the Louisiana Medical Disclosure Panel or as determined by your doctor, and (4) reasonabl therapeutic alternatives and material risks associated with such alternatives.

You have the right, as a patient, to be informed about your condition and the recommended surgical, medical o diagnostic procedure to be used so that you may make the decision whether or not to undergo the procedure after knowin the risks and hazards involved.

In keeping with the Louisiana law of informed consent, you are being asked to sign a confirmation that we have discusse all these matters. We have already discussed with you the common problems and risks. We wish to inform you a completely as possible. Please read the form carefully. Ask about anything you do not understand, and we will be please to explain it.

1. **Patient Name:**_____
2. **Treatment/Procedure:**
   (a) Description, nature of the treatment/procedure: _____
   _____
   _____

   (b) Purpose:_____
   _____
   _____
3. **Patient Condition:**
   Patient's diagnosis, description of the nature of the condition or ailment for which the medical treatment, surgic procedure or other therapy described in item number 2 is indicated and recommended:
   _____
   _____
4. **Material Risks of treatment procedure:**
   (a) All medical or surgical treatment involves risks. Listed below are those risks associated with this procedure that w believe a reasonable person in your (the patient's) position would likely consider significant when deciding whethe to have or forego the proposed therapy. Please ask your physician if you would like additional information regardin the nature or consequences of these risks, their likelihood of occurrence, or other associated risks that you mig consider significant but may not be listed below.

   [ ] See attachment for risks identified by the Louisiana Medical Disclosure Panel
   [ ] See attachment for risks determined by your doctor
   (b) Additional risks (if any) particular to the patient because of a complicating medical condition are:
   _____
   _____

   (c) Risks generally associated with any surgical treatment/procedure, including anesthesia are: death, brain damag disfiguring scars, quadriplegia (paralysis from neck down), paraplegia (paralysis from waist down), the loss or lo of function of any organ or limb, infection, bleeding, and pain.
5. **Reasonable therapeutic alternatives and the risks associated with such alternatives are:**
   _____
   _____

ACKNOWLEDGMENT
AUTHORIZATION AND CONSENT

(a) **No Guarantees**: All information given me and, in particular, all estimates made as to the likelihood of occurrence of risks of this or alternate procedures or as to the prospects of success, are made in the best professional judgment of my physician. The possibility and nature of complications cannot always be accurately anticipated and, therefore, there is and can be no guarantee, either express or implied, as to the success or other results of the medical treatment or surgical procedure.

(b) **Additional Information**: Nothing has been said to me, no information has been given to me, and I have not relied upon any information that is inconsistent with the information set forth in this document.

(c) **Particular Concerns**: I have had an opportunity to disclose to and discuss with the physician providing such information, those risks or other potential consequences of the medical treatment or surgical procedure that are of particular concern to me.

(d) **Questions:** I have had an opportunity to ask, and I have asked, any questions I may have about the information in this document and any other questions I have about the proposed treatment or procedure, and all such questions were answered in a satisfactory manner.

(e) **Authorized Physician**: The physician (or physician group) authorized to administer or perform the medical treatment, surgical procedures or other therapy described in item 2 is:

_____

(Name of authorized physician or group)

(f) **Physician Certification**: I hereby certify that I have provided and explained the information set forth herein, including any attachment, and answered all questions of the patient, or the patient's representative, concerning the medical treatment or surgical procedure, to the best of my knowledge and ability.

_____

(Signature of Physician) Date Time

CONSENT

onsent: I hereby authorize and direct the designated authorized physician/group, together with associates and assistants of is choice, to administer or perform the medical treatment or surgical procedure described in item 2 of this Consent Form, ıcluding any additional procedures or services as they may deem necessary or reasonable, including the administration of ıy general or regional anesthetic agent, x-ray or other radiological services, laboratory services, and the disposal of any ssue removed during a diagnostic or surgical procedure, and I hereby consent thereto.

I have read and understand all information set forth in this document, including any attachment, and all blanks were filled ı prior to my signing. This authorization for and consent to medical treatment or surgical procedure is and shall remain valid ntil revoked.

I acknowledge that I have had the opportunity to ask any questions about the contemplated medical procedure or surgical :ocedure described in item 2 of this consent form, including risks and alternatives, and acknowledge that my questions have ɜen answered to my satisfaction.

_____ _____

Witness Date/Time Patient or Person Authorized to Consent Date/Time

consent is signed by someone other than the patient, state the reason:

_____

Relationship

_____

_____

Attachment to Patient Consent to Medical Treatment or

Surgical Procedure and Acknowledgment of

Receipt of Medical Information

Patient's Signature

Date/Time

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, 40E et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR:1581 (December 1993), LR 20: (March 1994).

Rose V. Forrest
Secretary

RULE

Department of Insurance
Commissioner of Insurance

Regulation 49—Billing Audit Guidelines

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, and Act 664 of the Regular Legislative Session, the Commissioner of Insurance has adopted Regulation 49. The regulation provides for the standardization of billing audits for health care services by establishing statewide guidelines.

REGULATION 49
Billing Audit Guidelines

Section 1. Purpose

The purpose of this regulation is to provide for the reasonable standardization of statewide billing audit guidelines for health care providers and payers; and to provide for related matters. These rules are based, at least in part, on the National Health Care Billing Audit Guidelines and variances in order to comply with R.S. 22:10.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner under the Administrative Procedure Act and R.S. 22:10 of the Insurance Code.

Section 3. Applicability and Scope

This regulation shall apply to health care providers and payers. The provider and/or payer involved in the billing audit shall be responsible for the conduct and results of the billing audit whether conducted by an employee or by contract with another firm. This means that the provider and payer shall:

A. exercise proper supervision of the process to ensure that the audit is conducted according to the spirit of the regulations set forth here;

B. be aware of the actions being undertaken by the auditor in connection with the billing audit and its related activities; and

C. take prompt remedial action if inappropriate behavior by the auditor is discovered.

Section 4. Definitions

For purposes of this regulation:

A. *Ambulatory Surgical Center*—ambulatory surgical center as defined in R.S. 40:2133(A).

B. *Billing Audit*—a process to determine whether data in a provider's medical record documents or supports services listed on a provider's bill. Billing audit does not mean a review of medical necessity of services provided, cost or pricing policy of a facility, and adjustments for "usual and customary".

C. *Health Record Which Shall Mean Medical Record*— any compilation of charts, records, reports, documents, and other memoranda prepared by a health care provider, wherever located, to record or indicate the past or present condition, sickness, or disease, and treatment rendered, physical or mental, of a patient.

D. *Historic Error Rate*—the average error found during all audits conducted by external qualified billing auditors during the preceding calendar year. It shall be calculated by totaling the net adjustments made to all accounts audited by external qualified billing auditors during that year and dividing that total by the total amount claimed by the audited party to be due on those accounts immediately preceding the audit. This calculation results is an average error rate for all externally audited cases expressed as a percentage.

E. *Hospital*—hospital as defined in R.S. 40:2102(A).

F. *Patient*—a natural person who receives or should have received health care from a health care provider, under a contract, expressed or implied.

G. *Qualified Billing Auditor*—a person employed by a corporation or firm that is recognized as competent to perform or coordinate billing audits and that has explicit policies and procedures protecting the confidentiality of all the patient information in their possession and disposal of this information.

H. *Unbilled Charges*—the volume of services indicated on a bill is less than the volume identified in a provider's health record documentation; also known as undercharges.

I. *Unsupported or Undocumented Charges*—the volume of services indicated on a bill exceeds the total volume identified in a provider's health record documentation; also known as overcharges.

Section 5. Qualifications of Auditors and Audit Coordinators

All persons performing billing audits as well as persons functioning as provider audit coordinators shall have appropriate knowledge, experience, and/or expertise in a number of areas of health care including, but not limited to the following areas:

A. format and content of the health record as well as other forms of medical/clinical documentation;

B. generally accepted auditing principles and practices as they may apply to billing audits;

C. billing claims forms, including the UB-82 and UB 92, the HCFA 1500, and charging and billing procedures;

D. all state and federal regulations concerning the use, disclosure, and confidentiality of all patient records; and

E. specific critical care units, specialty areas, and/or ancillary units involved in a particular audit.

Providers or payers who encounter audit personnel who do not meet these qualifications shall immediately contact the auditor's firm or sponsoring party, but may not request information unrelated to the areas listed above.

Audit personnel shall be able to work with a variety of health care personnel and patients. They shall always conduct themselves in an acceptable, professional manner and adhere to ethical standards, confidentiality requirements, and objectivity. They shall completely document their findings and problems.

All unsupported or unbilled charges identified in the course of an audit must be documented in the audit report by the auditor. Individual audit personnel shall not be placed in a situation through their remuneration, benefits, contingency fees, or other instructions that would call their findings into question. In other words, compensation of audit personnel shall be structured so that it does not create any incentives to produce questionable audit findings. Providers or payers who

encounter an individual who appears to be involved in a conflict of interest shall contact the appropriate management of the sponsoring organization.

Section 6. Notification of Audit

Payers and providers shall make every effort to resolve billing inquiries directly. To support this process, the name and contact telephone number (and/or facsimile number) of each payer or provider representative shall be exchanged no later than the time of billing for a provider and the point of first inquiry by a payer.

If a satisfactory resolution of the questions surrounding the bill is not achieved by payer and provider representatives, then a full audit process may be initiated by the payer.

Generally, billing audits require documentation from or review of a patient's health record and other similar medical/clinical documentation. Health records exist primarily to ensure continuity of care for a patient; therefore, the use of a patient's record for an audit must be secondary to its use in patient care.

To alleviate the potential conflict with clinical uses of the health record and to reduce the cost of conducting a necessary audit, all payer billing audits shall begin with a notification to the provider of an intent to audit. Notification of the provider by the qualified billing auditor shall occur no later than four months following receipt of the final bill by the payer. Once notified, the provider shall respond to the qualified billing auditor within one month with a schedule for the conduct of the audit. The qualified billing auditor shall complete the audit within six months of receipt of the final bill by the payer. When there is a substantial and continuing relationship between a payer and a provider, this relationship may warrant a notification, response, and audit schedule other than that outlined herein. Also, each party shall make reasonable provisions to accommodate circumstances in which the schedule specified herein cannot be met by the other party.

All billing audits shall be conducted "on site".

All requests, whether telephonically or written, for billing audits shall include the following information:

A. the basis of the payer's intent to conduct an audit on a particular bill or group of bills (when the intent is to audit only specific charges or portions of the bill(s) this information should be included in the notification request);

B. name of the patient;

C. admit and discharge dates;

D. name of the auditor and the name of the audit firm;

E. medical record number and provider's patient account number; and

F. whom to contact at the payer institution and, if applicable, at the agent institution to discuss this request and schedule the audit.

Providers who cannot accommodate an audit request that conforms with these guidelines shall explain why the request cannot be met by the provider in a reasonable period of time. Auditors shall group audits to increase efficiency whenever possible.

If a provider believes an auditor will have problems accessing records, the provider shall notify the auditor prior to the scheduled date of audit. Providers shall supply the auditor/payer with any information that could affect the efficiency of the audit once the auditor is on-site.

Section 7. Provider Audit Coordinators

Providers shall designate an individual to coordinate all billing audit activities. An audit coordinator shall have the same qualifications as an auditor. (See Section 5., Qualifications of Auditors and Audit Coordinators.) Duties of an audit coordinator include, but are not limited to, the coordination of the following areas:

A. scheduling an audit;

B. advising other provider personnel/departments of a pending audit;

C. ensure that the condition of admission is part of the medical record;

D. verifying that the auditor is an authorized representative of the payer;

E. gathering the necessary documents for the audit;

F. coordinating auditor requests for information, space in which to conduct an audit, and access to records and provider personnel;

G. orienting auditors to hospital audit procedures, record documentation conventions, and billing practices;

H. acting as a liaison between the auditor and other hospital personnel;

I. conducting an exit interview with the auditor to answer questions and review audit findings;

J. reviewing the auditor's final written report and following up on any charges still in dispute;

K. arranging for payment as applicable; and

L. arranging for any required adjustment to bills or refunds.

Section 8. Conditions and Scheduling of Audits

In order to have a fair, efficient, and effective audit process, providers and payer auditors shall adhere to the following requirements:

A. whatever the original intended purpose of the billing audit, all parties shall agree to recognize, record or present any identified unsupported or unbilled charges discovered by the audit parties;

B. late billing shall not be precluded by the scheduling of an audit;

C. the parties involved in the audit shall mutually agree to set and adhere to a predetermined time-frame for the resolution of any discrepancies, questions, or errors that surface in the audit;

D. an exit conference and a written report shall be part of each audit; if the provider waives the exit conference, the auditor shall note that action in the written report. The specific content of the final report shall be restricted to those parties involved in the audit;

E. if the provider decides to contest the findings, the auditor shall be informed immediately;

F. once both parties agree to the audit findings, audit results are final;

G. all personnel involved shall maintain a professional courteous manner and resolve all misunderstandings amicably; and

H. at times, the audit will note ongoing problems either with the billing or documentation process. When this situation

occurs, and it cannot be corrected as part of the exit process, the management of the provider or payer organization shall be contacted to identify the situation and take appropriate steps to resolve the identified problem. Parties to an audit shall eliminate on-going problems or questions whenever possible as part of the audit process.

Section 9. Confidentiality and Authorizations

All parties to a billing audit shall comply with all federal and state laws and any contractual agreements regarding the confidentiality of patient information.

The release of medical records requires authorization from the patient. Such authorization shall be provided for in the condition of admission or equivalent statement procured by the hospital or ambulatory surgical center upon admission of the patient. If no such statement is obtained, an authorization for a billing audit shall be required. Authorization need not be specific to the insurer or auditor conducting the audit.

Such authorization shall be obtained by the billing audit firm or payer and shall include:

A. the name of the payer and, if applicable, the name of the audit firm that is to receive the information;

B. the name of the institution that is to release the information;

C. the full name, birthdate, and address of the patient whose records are to be released;

D. the extent or nature of the information to be released, with inclusive dates of treatment; and

E. the provider's patient account number; and

F. the signature of the patient or his legal representative and the date the consent is signed.

A patient's assignment of benefits shall include a presumption of authorization to review records.

The audit coordinator or medical records representative shall confirm for the audit representative that a condition of admission statement is available for the particular audit that needs scheduling.

The provider will inform the requestor, on a timely basis, if there are any federal or state laws prohibiting or restricting review of the medical record and if there are institutional confidentiality policies and procedure affecting the review. These institutional confidentiality policies shall not be specifically oriented in order to delay an external audit.

Section 10. Documentation

Verification of charges will include the investigation of whether or not:

A. charges are reported on the bill accurately;

B. services are documented in health or other appropriate records as having been rendered to the patient; and

C. services were delivered by the institution in compliance with the physician's plan of treatment (In appropriate situations, professional staff may provide supplies or follow procedures that are in accordance with established institutional policies, procedures, or professional licensure standards. Many procedures include items that are not specifically documented in a record but are referenced in medical or clinical policies. All such policies should be reviewed, approved, and documented as required by the Joint Commission on Accreditation of Healthcare Organizations or other accreditation of healthcare organizations or other accreditation agencies. Policies should be available for review by the auditor.)

The health record documents clinical data on diagnoses, treatments, and outcomes. It was not designed to be a billing document. A patient health record generally documents pertinent information related to care. The health record may not back up each individual charge on the patient bill. Other signed documentation for services provided to the patient may exist within the provider's ancillary departments in the form of department treatment logs, daily records, individual service/order tickets, and other documents.

Auditors may have to review a number of other documents to determine valid charges. Auditors must recognize that these sources of information are accepted as reasonable evidence that the services ordered by the physician were actually provided to the patient. Providers must ensure that proper policies and procedures exist to specify what documentation and authorization must be in the health record and in the ancillary records and/or logs. These procedures document that services have been properly ordered for and delivered to patients. When sources other than the health record are providing such documentation, the provider shall notify the auditor and make those sources available to the auditor.

Section 11. Fees and Payments

Payment of a bill shall be made promptly and shall not be delayed by an audit process. Payment on a submitted bill from a third-party payer shall be based on amounts billed and covered by the patient's benefit plan.

Billing audits shall be made in accordance with one of the following three audit fee and payment schedules:

A. a $100 audit fee shall be paid by the auditor to the audited party. Such audited party shall not require payment greater than 100 percent of the audited party's submitted bill minus such party's historic error rate;

B. in those instances where the audited party has had less than 12 audits in a calendar year, the error rate shall be set by mutual agreement between the audited party and the qualified billing auditor; and when the parties cannot agree, then the historic error rate shall be presumed to be seven percent; and

C. the $100 fee shall be waived in the following scenarios:

1. payment of 100 percent of the covered benefit plan has been made; or

2. the on-site audit commencement date exceeds 60 days from the date of the request for audit; or

3. audit fees are not required or are otherwise being waived.

Each provider's billing audit coordinator shall maintain a log containing the results of all audits performed by external qualified billing auditors in the preceding 24 months. In cases where the log is not complete for the past 24 months, the error rate shall be set by mutual agreement between the audited party and the qualified billing auditor; and when the parties cannot agree, then the historic error rate shall be presumed to be seven percent.

The audit log shall contain the amount billed immediately preceding the audit, and net adjustment resulting from the audit, the name, address, and phone number of the audit firm conducting the audit, and the name of the qualified billing auditor who performed the audit. Audits whose results are in

dispute and audits ordered by the provider and conducted by its own or contracted audit organization shall not be included in the audit log. The audit log shall be available at all times during regular business hours for inspection by any qualified billing auditor.

Audit fees, if needed, are to be paid upon commencement of the on-site billing audit. Any payment identified in the audit results, that is owed to either party by the other, shall be settled by the audit parties within a reasonable period of time — not to exceed 30 days after completion of the audit unless the two parties agree otherwise.

Neither the provider nor the qualified billing auditor shall require a billing, or re-billing, or refund request following final audit determination, but all findings shall be netted and the final result will be due by the relevant party without additional billing.

Photocopying and duplication charges shall be paid in accordance with R.S. 40:1299.96.

James H. "Jim" Brown
Commissioner

RULE

Department of Insurance
Commissioner of Insurance

Regulation 51—Individual Health Insurance Rating Requirements

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, and Act 655 of the 1993 Regular Legislative Session, the commissioner of insurance has adopted Regulation 51. This regulation implements a modified community rating system to be followed by carriers marketing individual health and accident insurance policies. It defines key terms and imposes restrictions on ratemaking activities. It also establishes a methodology for determining rates increases.

Regulation 51
Individual Health Insurance Rating Requirements

Section 1. Purpose

The purpose of this rule is to facilitate the implementation of R.S. 22:228.6. The intent of R.S. 22:228.6 is to establish a modified community rating system for health care premiums in the state. Adherence to this rule by individual health and accident insurance carriers will bring carriers into compliance with Section 22:228.6. The provisions of R.S. 22:228.6 not specifically addressed in this rule are in full force and effect as if they were addressed herein.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner of insurance under the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:10 and 22:228.6 of the Insurance Code.

Section 3. Applicability and Scope

R.S. 22:228.6 applies to the rating of small group and individual health benefit plans. This particular regulation applies to the compliance of individual health benefit plans only.

Section 4. Definitions

Individual Policy—any hospital, health or medical expense insurance policy, hospital or medical services contract, health and accident insurance policy, or any other insurance contract of this type covering any one person with or without eligible family members. Not included under this definition are continuation or conversion policies, or insurance policies written to cover specified disease, hospital indemnity, accident only, credit, dental or disability income, Medicare supplementary or long-term care, or other limited, supplemental benefit insurance policies. "Individual policy" also means a policy issued to an individual or individual member of an association where the individual pays for the entire premium.

Manual Rate—the lowest premium rate charged or which could have been charged under a rating system by the carrier to individuals with similar case characteristics for health benefit plans with the same or similar coverage. Coverage and case characteristic variations in the manual must bear a reasonable relationship to normal expectations based on experience of standard risks. The use of experience alone is not sufficient justification for variations beyond such expectations.

Section 5. Restrictions on Premium Rates

A. Each individual health and accident insurance carrier shall define a rate manual for its individual business. The manual will be used to determine compliance with the intent of the law for the relationship of one individual to the others within a carrier's block of individual business. For the purpose of this rule, all individual businesses shall be considered one class, and that class shall not be subject to R.S. 22:228.2.A.(1).

B. R.S. 22:228.6.b(2)(e), requires, in substance, that the premium rates charged during a rating period to individuals may not vary from the index rate by more than 20 percent for two years following January 1, 1994 and 10 percent thereafter. This requirement shall be met for each individual if the ratio of the premium charged the individual to that calculated from the rate manual is between 1 and 1.5 for rating periods following January 1, 1994 through January 1, 1996 and between 1 and 1.22 for rating periods thereafter.

C. For individual health insurance, the acceptability of a proposed rate increase for an individual contract or certificate shall be determined by comparing the desired renewal premium to a maximum renewal premium calculated as follows:

1. Calculate a premium using manual rates for the individual from the rate manual in effect at the renewal date, based on the case characteristics of the individual and the current benefit plan.

2. For rating periods following January 1, 1994 through January 1, 1996, the maximum renewal premium is 1.5 times the manual rate in C.1. For rating periods beginning after January 1, 1996, the maximum renewal premium is 1.22 times the manual rate in C.1.

3. In cases where the individual policy or contract does not have a specified renewal date, the anniversary of the date of issue shall be used as a proxy for the renewal date.

Section 6. General Provisions

A. Other methods may be used if it is demonstrated to the satisfaction of the department that such methods are designed to attain and/or enhance the purposes of R.S. 22:228.6. Such a demonstration shall at least consist of an actuarial certification and the methodology for testing compliance with R.S. 22:228.6.

James H. "Jim" Brown
Commissioner

RULE

Department of Insurance
Commissioner of Insurance

Regulation 52—Small Group Health Insurance Rating Requirements

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, and Act 655 of the 1993 Regular Legislative Session, the commissioner of insurance has adopted Regulation 52. The regulation implements a modified community rating system for small group health insurance carriers, defines key terms and imposes restrictions on ratemaking activities. It also establishes a methodology for determining rate increases.

Regulation 52
Small Group Health Insurance Rating Requirements

Section 1. Purpose

The purpose of this rule is to facilitate the implementation of R.S. 22:228.2 and 22:228.6. The intent of R.S. 22:228.2 is to restrict premium rate increases and the intent of R.S. 22:228.6 is to establish a modified community rating system for health care premiums in the state. Adherence to this rule by small employer health and accident insurance carriers will bring them into compliance with R.S. 22:228.2 and 22:228.6. The provisions of R.S. 22:228.2 and R.S. 22:228.6 not specifically addressed in this rule are in full force and effect as if they were addressed herein.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner of insurance under the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:10, 22:228.2 and 22:228.6 of the Insurance Code.

Section 3. Applicability and Scope

R.S. 22:228.2 applies to the rating of small group health benefit plans only. R.S. 22:228.6 applies to the rating of small group and individual health benefit plans. This particular regulation applies to the compliance of small group health benefit plans and association sponsored plans where group and individual member plans are combined.

Section 4. Definitions

Manual Rate—for each class of business as to a rating period, the lowest premium rate charged or which could have been charged under a rating system for that class of business, by the carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage. Coverage and case characteristic variations in the manual must bear a reasonable relationship to normal expectations based on experience of standard risks. The use of experience alone is not sufficient justification for variations beyond such expectations.

Representative Census—the average characteristics of all groups in a class of business insured by an insurance carrier.

Small Group and *Small Employer*—any person, firm, corporation, partnership or association actively engaged in business which, on at least 50 percent of its working days during the preceding year, employed no less than three nor more than 35 eligible employees or association members and does not include policies whose premiums are paid for by the individual employee alone. However, any association sponsored plan, which includes a combination of small groups and individuals, shall be considered as a small group and governed under Sections 22:228.2 and 22:228.6.

Section 5. Restrictions on Premium Rates

A. Each class of business shall have its own rate manual. The manual will be used to determine compliance with the intent of the law for the relationship of one employer group to the others within a class. The rate manual will also be used to determine compliance with the required relationship of one class to the other classes.

B. R.S. 22:228.2.A(2) and R.S. 22:228.6.B(2)(e) requires, in substance, that within a class the premium rates charged to small employers during a rating period may not vary from the index rate by more than 20 percent for two years following January 1, 1994 and 10 percent thereafter. This requirement shall be met for each small employer if the ratio of the premium charged the employer to that calculated from the rate manual is between 1 and 1.67 for rating periods from September 30, 1992 through December 31, 1993, between 1 and 1.5 for rating periods from January 1, 1994 through January 1, 1996 and between 1 and 1.22 for rating periods thereafter.

C. R.S. 22:228.2.A.(1) requires, that "the index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20 percent." This requirement shall be met as follows:

1. The company shall define a representative census of its business.

2. On December 31 of each calendar year, the company shall calculate a dollar rate according to the manual rate in effect for the rating period beginning December 31 for each class, using an actuarially equivalent plan of benefits for the representative census.

3. A conversion to an index dollar rate shall be made from the manual dollar rate for each class calculated in C.2 above. This conversion shall be made by multiplying the manual dollar rate for each class in C.2 above by the appropriate factor for each class calculated as follows:

i. Calculate the ratio of the highest premium

charged or which could have been charged as of the last renewal or issue date, according to the description of the rating practices for that class as required by 22:228.5, to the manual rate in affect at the last renewal or issue date for each group still in force as of December 31.

ii. The sum of 1.00 plus the highest ratio calculated from C.3.i. above divided by two shall be used as the conversion factor in C.3 above. For the calendar year 1993, if the highest ratio calculated in C.3.i. above is greater than 1.67, then 1.67 shall be used as the highest ratio. This conversion factor should be calculated for each class of business. For calendar years 1994 and 1995, 1.5 shall be used above. For each year thereafter, 1.22 shall be used.

4. The ratio of the highest index dollar rate for any class cannot exceed the lowest index dollar rate for any other class calculated in C.3. by more than 20 percent.

5. This test shall be performed on December 31 every year. Other methods may be used if it is demonstrated to the satisfaction of the department that the result will be the same.

D. R.S. 22:228.2.A.(3)(a)-(c) limits the percentage increase in the premium rate charge to small employers for a new rating period. In capsule form, the increase may not exceed the sum of the following:

1. the percentage change in the new business premium rate;

2. an adjustment, not to exceed 15 percent annually and prorated for rating periods of less than one year due to the claims experience, health status, or duration of coverage of the employees or dependents of the small employer; and

3. any adjustments due to change in coverage or case characteristics of the small employer.

E. The limit of a proposed rate increase for a small employer shall be determined by comparing the desired renewal premium to a maximum renewal premium calculated as follows:

1. Calculate a premium using manual rates for the small employer from the rate manual in effect at the renewal date, based on the current census of the small employer and the current benefit plan.

2. Calculate a premium using manual rates for the small employer from the rate manual in effect at the beginning of the rating period, based on the census and the benefit plan then in effect or based on the current plan with an actuarially equivalent adjustment for the difference in benefits between plans.

3. E.1 divided by E.2 multiplied by the gross premium in effect at the beginning of the rating period gives the maximum renewal premium for the next rating period for the allowance of D.1 and D.3 above.

4. A percentage of the gross premium in force prior to renewal may be added to E.3. The percentage is 15 percent per year prorated for the months elapsed between the last and current rating dates.

5. E.3 plus E.4 is the maximum renewal premium subject to the following:

i. Calculate the ratio of the maximum renewal premium in 5 above to the manual rate in E.1.

ii. For rating periods through December 31, 1993, if i exceeds 1.67, then 1.67 multiplied by the manual rate in E.1. is the maximum renewal premium, not the renewal premium in E. For rating periods after December 31, 1993 through December 31, 1995, 1.5 should be substituted for 1.67. For rating periods beginning on or after January 1, 1996, 1.22 should be substituted in the above for 1.67.

Section 6. General Provisions

A. Other methods may be used to comply with R.S. 22:228.2 and R.S. 22:228.6 if it is demonstrated to the satisfaction of the department that such methods are designed to attain and/or enhance the purposes of R.S. 22:228.2 and R.S. 22:228.6. Such demonstration shall at least consist of an actuarial certification and the methodology for testing compliance with R.S. 22:228.2 and R.S. 22:228.6.

James H. "Jim" Brown
Commissioner

RULE

Department of Revenue and Taxation
Sales Tax Division

Automobile Rentals; Allocation of Use Tax
(LAC 61:I.4307)

As authorized by R.S. 47:303(B)(6) and in accordance with R.S. 49:950(B) of the Administrative Procedure Act, the Department of Revenue and Taxation has amended LAC 61:I:4307 to provide for the allocation of the local sales and use taxes paid on automobiles purchased for lease or rental to each automobile rental contract.

Act 569 of the 1993 Regular Session of the Louisiana Legislature, effective July 1, 1993, requires the department to promulgate rules to provide for an allocation schedule that will ensure an equitable allocation that is not in excess of the actual local sales taxes paid by the lessors and renters.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation
Chapter 43. Sales and Use Tax
§4307. Collection

A. - B.4.h.ii. ...

(a).(i). Every dealer who is registered for, collects, and remits the Automobile Rental Excise Tax levied by R.S. 47:551 to the secretary of Revenue and Taxation is permitted, under the provisions of this Section, to recover the local sales taxes paid on purchases of automobiles held for rental periods of 29 days or less. In accordance with R.S. 47:303(B)(6), only those lessors or renters subject to the three percent excise tax may directly transfer the cost of local sales and use taxes paid on any such automobiles by allocating a portion to each individual rental contract. Lessors or renters whose lease or rental contracts exceed 29 days and whose lease or rental receipts are not subject to the three percent excise tax are not eligible for this recovery provision.

(ii). This provision merely makes this recovery option available to any qualified automobile rental dealer. It is not mandatory, and rental dealers who do not wish to employ this recovery method are not required to comply with this regulation.

(iii). Any and all sales or use taxes levied by political subdivisions of Louisiana under the provisions of Title 33, Chapter 6, Part I, Subpart D, and paid to the Office of Motor Vehicles on purchases of automobiles whose rental receipts are subject to the three percent tax levied under R.S. 47:551 are recoverable under this provision. Sales taxes levied by the state of Louisiana, any other state, or by political subdivisions of any other state are not recoverable. Local sales and use taxes paid on any type of vehicles other than automobiles, vehicle registration taxes, title and service fees, occupational license taxes, privilege taxes, or ad valorem taxes are not eligible for recovery under this Section.

(b). In order to accomplish and facilitate collection of local sales taxes due, an amount equal to the Local Sales Tax Recovery Surcharge (LSTRS) of $2 per rental day shall be collected and retained by the owner/lessor of the vehicle from the person/lessee renting the vehicle. Rental transactions having a duration of less than 24 hours shall be considered a rental day for purposes of collecting the LSTRS. The vehicle owner/lessor must collect the LSTRS as a line item on the customer invoice, which is separate from the state and local sales and use tax and the Automobile Rental Excise Tax. The vehicle owner/lessor must not represent the LSTRS to his lessees as a charge that is mandated by the State of Louisiana or by any political subdivision of the state.

(c). The owner/lessor shall remit the sums for local sales taxes due to the vehicle commissioner in the usual and customary manner as provided by law.

(d).(i). To provide for an orderly transition to the local sales tax recovery system established in R.S. 47:303 (B)(6), each automobile owner/lessor shall, before adding the LSTRS to any rental contract, determine the total amount of local sales and use tax that he paid in the prior calendar year on automobiles held for rental periods of 29 days or less. The automobile owner/lessor must cease the collection of the LSTRS from lessees at the time that total collections from the LSTRS during the current calendar year equal the amount of local sales and use taxes paid on eligible vehicles during the preceding calendar year.

(ii). If, notwithstanding the provisions of (i) of this Subclause, actual collections of the LSTRS during a calendar year exceed the amount needed to reimburse the lessor for recoverable local taxes paid during the preceding calendar year, any such excess must be remitted to the Department of Revenue and Taxation as "excess tax" on the lessor's monthly return for the Automobile Rental Excise Tax.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:303(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 20: (March 1994).

Raymond Tagney
Director

RULE

Department of Social Services
Office of Rehabilitation Services

Policy Manual (LAC 67:VII.101)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) is revising its policy manual.

This rule provides federally mandated revisions to the rules governing the policy used by LRS in implementing its various programs.

This rule supersedes all rules previously promulgated regarding the LRS policy manual.

Title 67
SOCIAL SERVICES
Part VII. Louisiana Rehabilitation Services
Chapter 1. General Provisions
§101. Policy Manual

A. LRS Policy Manual, fiscal year 1994, provides opportunities for employment outcomes and independence to individuals with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

B. Copies of the policy manual can be obtained at Louisiana Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA, at each of its nine regional offices, and at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:891 (September 1991), amended LR 20: (March 1994).

Gloria Bryant-Banks
Secretary

RULE

Department of Transportation and Development
Utility and Permit Section

Standards Manual—Facilities in Right-of-Way
(LAC 70:III.Chapter 13)

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 adopted a rule entitled "Standards Manual for Accommodating Utilities, Driveways and Other Facilities on Highway Right-of-Way" in accordance with R.S. 19:14, 30:210-217, 32:236, 38:2223, 38:3094, 48:191-193, 48:217, 48:295.1, 48:295.2, 48:295.3, 48:295.4, 48:343, 48:344, 48:381-383, 48:385-387, 51:1901-1909, 51:1909.1.

The full text of this rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804, telephone (504) 342-5015.

Jude W. P. Patin
Secretary

RULE

Department of Transportation and Development
Utility and Permit Section

Utility Operator Fee Schedule (LAC 70:III.1501, 1503)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of Transportation and Development adopted a rule entitled "Utility Operator Permit Fees" in accordance with Act 998 of 1993 (R.S. 48:381 (E).

Title 70
TRANSPORTATION AND DEVELOPMENT
Part III. Highways
Chapter 15. Utility Operator Permit Fees
§1501. Use of Rights-of-Way

Following is a schedule of fees for use of highway rights-of-way by utility operators:

Operator Type	Customers	Annual Fee
Class 1	0-100	$ 20
Class 2	101-500	$ 50
Class 3	501-6000	$ 200
Class 4	more than 6000	$ 700

Operator of Transmission Pipelines $ 100/Parish; $1500/Max.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 48:381(E).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20: (March 1994).

§1503. Procedure

Following is the procedure for the processing of utility operator permit fees.

1. This fee only covers use of highway right-of-way for utility facilities and driveways; it does not cover attachments to structures, leasing excess property or joint use agreements.
2. The fee shall cover all utility facilities owned by the utility operator, regardless of how many different types of facilities are owned by the operator.
3. If, as the result of a highway relocation or other activity performed for the benefit of Department of Transportation and Development, a utility operator that previously had no facilities within highway right-of-way has facilities within highway right-of-way, this operator shall maintain his prior rights, and shall not be liable for this fee, until such time as he places additional facilities within the right-of-way.
4. Class 1 and Class 2 operators who own facilities that cross highways perpendicularly, and that have no facilities located longitudinally within highway right-of-way shall be exempt from this fee.
5. Each operator shall include in his application updated information which may affect the amount of his invoice.
6. Each December the Department of Transportation and Development shall invoice all known utility operators with facilities located within state highway right-of-way.
7. Each operator shall pay the invoice in full by July 31 of the following year.
8. One fee shall be paid by each owner, regardless of how many divisions or types of facilities he owns.
9. Separate companies owned by the same parent company shall each pay separate fees.
10. Issuance of permits to operators failing to submit full payment by February 1, 1994 of each year shall be suspended. The operator shall be notified of this deficiency, and shall have 60 days from the date of this notification to submit payment in full. Facilities owned by operators who fail to submit full payment within the 60-day notification period shall be removed from highway right-of-way.
11. All payments shall be in a lump sum form, and shall be paid by cashier's check, money order, or approved alternative.
12. Upon receipt of all monies, the Department of Transportation and Development shall deposit same in the Right-of-Way Permit Processing Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(E).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20: (March 1994).

Jude W. P. Patin
Secretary

RULE

Department of Transportation and Development
Weights and Measures

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

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 adopted the following rule entitled Multiple Penalties for Vehicle Overweight Violations in accordance with Act 692 of 1993, R.S. 32:388.1.

An emergency rule to this effect was published in the September 1993 issue of the *Louisiana Register*.

Title 73
WEIGHTS, MEASURES AND STANDARDS
Part I. 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 Legislature.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 20: (March 1994).

Jude W. Patin
Secretary

RULE

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

Preferred Provider Organization (PPO) Participation

Notice is hereby given that the Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program has adopted the following in the State Employees Group Benefits Program (program) for participation in its Preferred Provider Organization (PPO).

Section I. Participation by Medical Providers other than Hospitals

A. Doctors and Clinics

1. There shall be no exclusive contracts.

2. If the doctor interested in becoming a PPO provider is licensed to practice medicine in the state of Louisiana, he/she, upon request, must be given the opportunity to enroll as a PPO provider.

3. Any doctor or clinic must agree to the terms contained in the program's standard PPO contract, including the percentage discount off the program's Medical Fee Schedule which has been executed by any other doctor or clinic in the PPO region.

4. The doctor shall be responsible for submitting his/her claim for services rendered to the program's covered person.

B. Pharmacies

1. There shall be no exclusive contracts.

2. Any pharmacy interested in becoming a PPO provider shall agree to the terms contained in the program's standard PPO contract, including the discounts from retail prices which have been agreed to by any other pharmacy in the PPO region.

3. Claims shall be electronically submitted to the program by the participating PPO pharmacy. The PPO contract shall not become effective until the pharmacy has demonstrated to the satisfaction of the program that it is capable of submitting claims in the format acceptable to the program.

Section II. Participation by Hospitals

A. There may be exclusive contracts for hospital participation.

B. Hospitals interested in becoming a PPO provider shall agree to the terms contained in the program's standard PPO contract. This contract shall include either per diem rates, discounts from retail prices or a combination of both.

C. In determining whether to offer a contract to a hospital and in determining what rates will be offered to a particular hospital, the program shall consider but not necessarily be limited to consideration of the following nonexclusive criteria:

1. the amount of previous payments to the hospital, including the total payments and the payment per day;

2. the competitiveness of hospital services in the PPO region, including the prices of services within the region and the willingness of hospitals to contract with the program;

3. the number of plan participants within the PPO region;

4. the availability of hospital services within the PPO region;

5. the receptiveness of the medical community within the PPO region to managed care programs;

6. the program's previous experience with the hospital; and

7. such other factors which may be relevant and reasonable for consideration.

D. Hospitals participating in the program's PPO network shall be responsible for submitting claims for services rendered at their facilities in a format acceptable to the program.

Section III. Notice

A. Notice of the program's desire to enlist participants in its PPO network within a PPO region may be given by means of letters to the medical community or hospitals within the region, by publication in a newspaper of general circulation in the PPO region or by other reasonable means.

B. The announcement of the award of contracts shall be given by written publication of a PPO directory or by publication in the program's newsletter which is sent to plan participants.

Section IV. Other

The program may develop other types of PPO contracts as it deems reasonable and proper.

James R. Plaisance
Executive Director

RULE

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

Rate Adjustment

Notice is hereby given that the Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program has adopted the following rate increase, effective July 1, 1993, as follows:

State Employees Group Benefits Program
Schedule of Rates
July 1, 1993

	Employee Share	State Share	Total Rate
Active Employees			
Single	$93.10	$75.10	$168.20
Two-Party	$151.06	$133.06	$284.12
Family	$182.54	$164.54	$347.08
Retired Employees			
Single Coverage- Without Medicare	$93.10	$285.38	$378.48
Single Coverage- With Medicare	$54.04	$36.04	$90.08
Two Party Coverage- None with Medicare	$151.06	$505.62	$656.68
Two Party Coverage- One with Medicare	$109.86	$349.10	$458.96
Two Party Coverage- Two with Medicare	$102.58	$84.58	$187.16
Family Coverage- None with Medicare	$182.54	$625.26	$807.80
Family Coverage- One with Medicare	$138.74	$458.82	$597.56
Family Coverage- Two with Medicare	$129.52	$111.52	$241.04
Surviving Dependent(s)			
Single Coverage- Without Medicare	$168.20	$0.00	$168.20
Single Coverage- With Medicare	$90.08	$0.00	$90.08
Two Party- None with Medicare	$284.12	$0.00	$284.12
Two Party- One with Medicare	$201.72	$0.00	$201.72
Two Party- Two with Medicare	$187.16	$0.00	$187.16
Family Coverage- None with Medicare	$347.08	$0.00	$347.08
Family Coverage- One with Medicare	$259.48	$0.00	$259.48
Family Coverage- Two with Medicare	$241.04	$0.00	$241.04
COBRA Rates			
Single	$171.56	$0.00	$171.56
Two-Party	$289.80	$0.00	$289.80
Family	$354.04	$0.00	$354.04
Part-Time Employees			
Single	$96.46	$75.10	$171.56
Two-Party	$156.74	$133.06	$289.80
Family	$189.50	$164.54	$354.04
Disability Rate (29 Month COBRA)			
Single	$252.32	$0.00	$252.32
Two-Party	$426.20	$0.00	$426.20
Family	$520.64	$0.00	$520.64

James R. Plaisance
Executive Director

RULE

Department of Treasury
Bond Commission

Disclosure of Agreements between Financial Professionals for Negotiated Transactions

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Bond Commission has amended the commission's rules as originally adopted November 20, 1976.

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 proposes to amend the following 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 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

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Alligator Harvest (LAC 76:V.701)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission does hereby 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.

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 buyer's 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 dealer's 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 20: (March 1994).

The regulations governing the alligator harvest program and the alligator farming program may be viewed in their entirety at the Wildlife and Fisheries Headquarters, 2000 Quail Drive, Baton Rouge, LA, phone (504) 765-2812.

John F. "Jeff" Schneider
Chairman

RULE

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 amends 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 20: (March 1994).

John F. "Jeff" Schneider
Chairman

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Commercial Fisherman's Sales Report Form
(LAC 76:VII.203)

The Wildlife and Fisheries Commission hereby amends 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 20: (March 1994).

John F. "Jeff" Schneider
Chairman

NOTICES OF INTENT

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Structural Pest Control Commission

Structural Pest Recertification (LAC 7:XXV.14113)

The Department of Agriculture and Forestry, Structural Pest Control Commission advertises its intent to amend the following rule revising LAC Title 7, Part XXV, Chapter 141. This amendment gives the commission greater ability to track the recertification of commercial applicators. This rule complies with and is authorized by R.S. 3:3366-69.

Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control
Chapter 141. Structural Pest Control Commission
§14113. Obligations of the Licensee

A. - E. ...

F. The licensee must maintain his commercial applicator certification in current status by:

1. ...

2. recertification at least once every three years; such recertification shall be completed by December 31 of the year preceding the third anniversary of either the original certification or the most recent recertification;

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3:3367, 3:3368 and 3:3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 20:

A public hearing will be held on Thursday, April 28, 1994 at 9:30 a.m. at the Department of Agriculture and Forestry building on Florida Boulevard, Baton Rouge, LA. All interested persons may make submissions at that time.

Interested persons may also submit opinions, suggestions or data through that date to Bobby Simoneaux, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding these proposed rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Recertification of Commercial Applicators

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 adoption.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect to state or local governmental units is anticipated to result from implementation of the proposed rule adoption.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Directly affected persons, commercial structural pest control applicators, may have their anniversary date for recertification moved up one year. The actual cost of recertification programs will be unaffected by the rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is expected to result from the implementation of this rule.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Animal Health Services

Pet Turtles (LAC 7:XXI.Chapter 123)

(Editor's Note: A portion of the following notice of intent, which was published on pages 203 through 208 of the February 20, 1994 *Louisiana Register,* is being republished to correct typographical errors.)

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 123. Pet Turtles
§12313. Identification of Groups of Turtles and Turtle Eggs

A. All groups of turtles or turtle eggs produced by licensed pet-turtle farmers in Louisiana shall be assigned an identification number consisting of six major parts:

1. Licensed Pet-Turtle Farmer Identification Code. Designated by the department.

2. Month. The month, in numerical form, in which the pet turtles or turtle eggs are submitted to a certified laboratory for microbiological testing.

3. Date of Month. The particular date of the month in which the pet turtles or turtle eggs are submitted to a certified laboratory for microbiological testing.

4. Year. The year in which the pet turtles or turtle eggs are submitted to a certified laboratory for microbiological testing.

5. Group Number. For each calendar year, the first group of pet turtles or turtle eggs submitted to a certified laboratory for microbiological testing shall bear the number 001, the second, 002, and each subsequent group shall be numbered sequentially.

6. Amount. The total number of turtles assigned to the turtle group, not to exceed 20,000.

Example: Pet-turtle farmer bearing code FTF submits its first group of turtles to a certified laboratory on April 4, 1991, consisting of 18,000 turtles. This group would be identified as follows:

Farmer	Month	Date	Year	Group No.	Amount
FTF	4	04	91	001	18,000

The turtle group number would be written:
FTF 4-04-91-001-18,000

B. No turtle group shall exceed 20,000 viable hatchlings or turtle eggs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.7.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended LR 20:

Bob Odom
Commissioner

NOTICE OF INTENT

Department of Civil Service
Civil Service Commission

Exceptions to Overtime Rules; Exclusion of Employees from Layoff-Avoidance Due to Pending Retirement

Notice is hereby given that the Civil Service Commission intends to amend the Civil Service rules. The commission proposes to amend Civil Service Rule 6.27 to permit appointing authorities to exercise listed overtime options for staff that must work during closures without requiring approval of the Civil Service Commission. The option selected will not have to be the same for all work groups in a particular closure; however, use of more than one option for similar emergency work personnel will not be allowed. The commission also proposes to adopt a new Rule 17.3.1 which will prevent someone who is exempt from a layoff-avoidance measure because he is near retirement from receiving the exemption and then not retiring.

6.27. Exceptions to the Overtime Rules

Exceptions to the rules on overtime compensation are as follows:

(a). - (d). ...

(e). Special Overtime Options for Emergency Work during Official Closures. When, due to imminent peril or immediate danger from weather conditions or natural disasters, a security risk to the public safety, or similar occurrences of an extraordinary nature, the appointing authority has declared his agency or offices thereof officially closed or the governor has officially closed certain or all offices of the state, an appointing authority (unless otherwise required for nonexempt employees under the provisions of the Fair Labor Standards Act or other federal rules, regulations and judicial decisions) shall select and use one of the applicable options for overtime compensation for work performed by those employees who are required to be on emergency duty during such closure:

a. cash payment at regular rate;
b. compensatory leave earned hour for hour;
c. cash payment at time and one-half hour;
d. compensatory leave earned at time and one-half;
e. no overtime compensation.

* * *

17.3.1. Exclusion of Employees from Layoff Avoidances Due to Pending Retirement

(a). An appointing authority may request of the director that an identified employee(s) be excluded from a layoff avoidance plan when the employee(s) is within three years from attaining eligibility for retirement from state service. Such request shall be accompanied by a signed statement from the employee(s) on a form drafted by the director that identifies an expected retirement date and contains a statement that the employee has received a copy of this rule. This signed statement shall not be considered a resignation with prospective effective date as referred to in Rule 12.11.

(b). The director may give interim approval to a request under this rule, but such interim approval is subject to ratification by the commission at the next regularly scheduled meeting. The director may refer requests under this rule to the commission without giving interim approval.

(c). In the event the employee(s) excluded from a layoff avoidance plan pursuant to this rule does not retire from state service on the date identified in the signed statement referred to above, and remains employed with the agency which excluded the employee(s) from a layoff avoidance plan, beginning the first full pay period after such date the appointing authority shall begin to apply the layoff avoidance plan(s) from which the employee(s) was excluded to the employee(s) for the duration that such plan was applied to employees of the appointing authority. Where the employee(s) was excluded from more than one layoff avoidance plan, such plans shall be applied successively without a break in the order and for the duration they were applied to employees of the appointing authority.

The Civil Service Commission will hold a public hearing to consider these amendments on Wednesday, April 6, 1994, at 9 a.m. in the Commission Hearing Room at the Department of Civil Service, Second Floor, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. Persons interested in making comments relative to this proposal may do so at the

public hearing or by writing to Herbert L. Sumrall, Director of Civil Service, Box 94111, Baton Rouge, LA 70804-9111. If any special accommodations are needed, please notify him prior to this meeting.

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Civil Service
Civil Service Commission

Red Circle Rates; Pay upon Movement of Jobs to New Structure Grades; Pay upon Demotion

Notice is hereby given that the Department of Civil Service intends to amend Civil Service rules regarding red circle rates, pay upon movement of jobs to new structure grades, and pay upon demotion.

The two-year limit for red circle rates is extended to five years to prevent employee pay reductions which have been occurring during the present two-year period and to allow a longer period for future recipients to recoup pay that will otherwise be lost when the current red circle rate expires. When the rule was first adopted it was felt that, except in the most extreme cases, an employee would be able to recoup the money lost when their red circle rate expired (after two years) through annual increases in the pay plan, merit increases, promotions, etc. However, because of the adverse effect of the economy in recent years on pay plan changes and merit increases, and the affects of retrenchment, this is no longer the case. Many employees are being subject to a substantial loss at the end of two years. It is felt that an extension to five years is warranted to alleviate this problem. Rule 6.15 and 19.3 will be amended to reflect this change.

Paragraph (f) is added to Rule 6.15 to prevent pay reductions when an employee is demoted in lieu of layoff for reasons other than budgetary cuts. Rule 6.10 has been changed to conform with the addition of Rule 6.15(f).

6.15. Red Circle Rates

Rates that fall within the range become the employee's individual pay rate. Individual pay rates that fall above the maximum established for the grade become red circle rates and remain in effect for five years or until the range catches up with the rate, whichever comes first; however, eligibility for a red circle rate is lost upon separation from state service, or demotion except as provided in part (f) of this rule. Individuals whose salary rates are red circled shall not be eligible for any other pay adjustments provided for in the rules. Red circle rates are assigned under the conditions outlined below:

(a). - (e). ...

(f). When an employee is subject to a demotion in lieu of a layoff, and the layoff was not absolutely required because of budgetary cuts.

19.3. Pay Upon Movement of Jobs to New Structure Grades

(a). ...

(b). Subject to the provisions of Rule 19.3(e), if the employee's individual pay rate falls above the new range maximum, his pay shall be red circled. Individual pay rates that fall above the maximum established for the grade become Red circle rates and remain in effect for five years or until the range catches up with the rates, whichever comes first. Individuals whose salary rates are red circled shall not be eligible for any other pay adjustments.

(c). - (f). ...

6.10. Rate of Pay Upon Demotion

Subject to the provisions of Civil Service Rule 6.15 when an employee is demoted for any reason under any circumstances, his pay shall be reduced as follows:

(a). - (d). ...

The Civil Service Commission will hold a public hearing on Wednesday, April 6, 1994, to consider these rule proposals. The hearing will begin at 9 a.m. and will be held at the Department of Civil Service, Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to Herbert L. Sumrall, Director, Civil Service, Box 94111, Baton Rouge, LA 70804-9111. If any special accommodations are needed, please notify him prior to this meeting.

Herbert L. Sumrall
Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

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 Quality Education Support Fund 8(g) Annual Program and Budget for Fiscal Year 1994-95 as stated below. Section IV:124 of the 8(g) Policy and Procedures Manual directs that the 8(g) Annual Program and Budget be published in the *Louisiana Register*.

8(g) Annual Program and Budget
FY 1994-95
(Final Adoption—January 27, 1994)

Competitive Allocation

I. Exemplary Competitive Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills

A. Elementary/Secondary Education (Grades K-12) $ 2,850,000

B. Vocational Technical Education (Public Postsecondary)	750,000
Block Grant Allocation	
II. Exemplary Block Grant Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills	
A. Elementary and Secondary Education	6,200,000
1. Early Childhood Education (Pre-K - 3rd Grade)	
2. Student Enhancement (Grades 4 - 12)	
3. Educational Technology	
B. Preschool/Early Childhood Program	3,410,000
C. Vocational Education	800,000
1. Extension	
2. Accreditation/Certification	
Statewide Allocation	
III. Exemplary Statewide Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills	
A. Elementary/Secondary	
1. Creative/Academic Scholars Programs	150,000
2. Mini Grant Awards of Excellence	200,000
3. Statewide Distance Learning Network	1,510,000
4. Enhancement of Secondary Math and Physics	100,000
5. Academic/Vocational Enhancement of BESE Special Schools	120,000
6. Multisensory Arts Program	602,022
7. LA Women in Politics Civics Project	50,000
B. Vocational Education	
1. Educate America/School to Work	50,000
2. Occupational Competency Testing Program	15,000
3. VTIE Certification Program	100,000
4. Statewide Quickstart	700,000
5. Vocational Skills Enhancement	1,500,000
C. Professional Development Administrators	
1. Leadership Academy: Assessment and Development	300,000
Teachers	
1. Tuition Exemption Program	4,005,000
2. Instructional Enhancement Program	1,170,000
3. LaSIP Math/Science Initiative	1,000,000
4. Louisiana Geography Education Alliance	50,000
5. Accelerated Schools	110,000
6. High Schools That Work	260,000
7. Humanities Institutes	220,000
IV. Research or Pilot Programs Designed to Improve Student Academic Achievement	
A. Louisiana Educational Assessment Program	1,000,000
B. Accelerated Schools—Pilot Program	350,000
C. High Schools That Work—Pilot Program	312,000
V. Purchase of Superior Textbooks, Library Books, and Other Instructional Materials	3,000,000
VI. Teaching of Foreign Languages in Elementary and Secondary Schools	180,000
VII. Scholarships or Stipends to Prospective Teachers in Critical Shortage Areas	
A. Education Majors Program	1,000,000
B. Postbaccalaureate Scholarship Program	150,000
Management and Oversight	
Administration (.9%)	297,575
Fiscal/Programmatic Evaluation (1.1%)	357,974
Total	$32,869,571

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

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

Interested persons may submit comments on the proposed rule until 4:30 p.m., May 9, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: 8(g) Annual Program and Budget (FY 1994-95)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Board of Elementary and Secondary Education has adopted its Quality Education Support Fund budget for FY 1994-95. This budget is funded with 8(g) dedicated funds. If the Legislature appropriates these funds as allocated by BESE, the cost over the 1993-94 budget will be $422,615. Of this amount, statewide program funding will increase by $932,022, vo-tech funding will decrease $650,000, direct funding to LEAs will increase by $160,000, and funding for administration/ evaluation will decrease $19,407.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenues to local education agencies for competitive projects and block grant awards will not exceed $12,460,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Up to $12,460,000 will be available for exemplary competitive projects and block grants for programs designed to improve student academic achievement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Carole Wallin	David W. Hood
Executive Director	Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—School Administrators Handbook
Nonpublic Business Education Course Offerings

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Standard 6.105.26 of Bulletin 741, Louisiana Handbook for School Administrators, to change the titles in the nonpublic business education curriculum to be the same as the public business education course titles.

Bulletin 741 (Nonpublic) Business Education

6.105.26. Business education course offerings shall be as follows:

Course Title	Recommended Grade Level	Unit(s)
Accounting	10-12	1
Computerized Accounting	11-12	1
Administrative Support Occupations	11-12	1
Business Mathematics	9-12	1
Business English	11-12	1
Business Law	11-12	½
Cooperative Office Education (COE)	12	3
Business Computer Applications I	10-12	½
Business Computer Applications II	10-12	½
Economics	11-12	1
Exploratory Business	7-8	
Introduction to Business	9-12	1
Keyboarding	9-12	½
Keyboarding Applications	9-12	½
Keyboarding Prod.I	10-12	½
Keyboarding Prod.II	10-12	½
Office Machines	10-12	½
Recordkeeping	9-12	1
Shorthand/Speedwriting	10-12	1 or ½
Word Processing	11-12	1 or ½

Keyboarding and Keyboarding Applications shall be a prerequisite to Administrative Support Occupations and Word Processing. Keyboarding shall be a prerequisite to Shorthand/ Speedwriting. Level I courses shall be prerequisite to Level II courses.

Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding and have maintained an overall "C" average. The students attendance records should also be considered. Other prerequisites may be required by the individual school system.

Interested persons may submit comments on the proposed rule until 4:30 p.m., May 9, 1994 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: Nonpublic Business Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only estimated implementation cost is $100 to print and disseminate the changes in Bulletin 741.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

The only persons or nongovernmental groups who would be directly affected are those persons responsible for entering course titles on school documents. The change would merely require the entry of a different title on the documents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

MFP Student Membership Definition (LAC 28:I.1709)

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 student membership definition for state reporting for public education for the purpose of establishing the base student count for state funding of the Minimum Foundation Program. This definition will be an amendment to the Administrative Code as noted below:

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 17. Finance and Property
§1709. Budgets

* * *

I. MFP: Equalization Grant

* * *

3. Student Membership. For state reporting for public education for the purpose of establishing the base student count for state funding, shall adhere to the following:

A. All students included for membership in school shall be identified with the following minimum required identification elements: state identification number, full legal name, date of birth, sex, race, district and school code, entry date, and grade placement.

B. For establishing the base student membership count for state funding the following guidelines will be adhered to:

1. No student will be counted more than one time. Students attending more than one school will be counted in membership only one time.

2. All students, including special education students and students in ungraded class settings, will be included in the base student membership count who meet the following criteria:

a. have registered or pre-registered on or before October 1 *,

b. are actively attending school (All current state laws and BESE policies concerning attendance should be carefully followed. Appropriate documentation (either written or computer documents) such as dates of absences, letters to parents, and notification to child welfare and attendance officers should be placed in individual permanent records for any students who may have absences which raise questions about the student's active attendance.);

c. and/or have not officially exited from school. (Students are considered to have officially exited if a notification of transfer has been provided by the student's parent/legal guardian or received from another school.)

3. Students who are in BESE approved alternative programs (schools), will be included in the base student count for membership.

4. Students who reside in Louisiana, attend school in another state, and are supported by Louisiana funding will be included in the base student count for membership.

5. All special education preschool (ages 3-5) students will be included in the base student count for membership.

6. All special education infant (ages birth-2) students for whom the district provides one or more of the 17 identified services shall be included in the base student count for membership.

7. Students in grades 13 and 14 in Bossier Parish as cited in R.S. 17:2050 will be included in the base student count for membership.

8. Regular pre-kindergarten (four-year-old program) students will not be included in the base student count for membership.

9. private school students receiving services through the public school system will not be included in the base student membership.

* If October 1 falls on a Saturday, report membership on September 30. If October 1 falls on a Sunday, report membership on October 2.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:398 (September 1975), amended LR 1:541 (December 1975), LR 3:404 (October 1977), LR 14:789 (November 1988), LR 14:790 (December 1988), LR 16:297 (April 1990), LR 16:397 (May 1990), LR 20

Interested persons may submit comments on the proposed rule until 4:30 p.m., May 9, 1994 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallen
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: MFP Student Membership Definition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The only estimated implementation cost is $100 to print and disseminate the changes in the Administrative Code.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Technical Institute Name Change (LAC 28:I.111)

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 proposal to change the name of Concordia Technical Institute to Shelby M. Jackson Memorial Technical Institute, effective July 1, 1994. This is an amendment to the Administrative Code, Title 28 as noted below:

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 1. Organization
§111. Vocational-Technical Schools

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

* * *

7. Shelby M. Jackson Memorial Technical Institute, Ferriday;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2000.

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

Interested persons may submit comments on the proposed rule until 4:30 p.m., May 9, 1994 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: Technical Institute Name Change

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This is changing the name of Concordia Technical Institute to Shelby M. Jackson Memorial Technical Institute. The cost of this change will be to notify all concerned; to have the technical institute sign changed and when ordering new stationery have the name changed. The cost will be approximately $2,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs to persons or nongovernmental groups for this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition as a result of this action.

Marlyn J. Langley
Deuput Superietendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Employment Opportunity Program
Due Diligence Requirements

The Student Financial Assistance Commission announces its intention to amend the Louisiana Employment Opportunity (LEO) Loan Program Policy and Procedure Manual to amend due diligence requirements.

The described items are amended as follows:

4.2.4.B. Add 110 days.

4.2.4.C. Consider that date to be the date on which repayment status begins and the first payment is due.

4.2.7.A.1.b. Send a properly completed LEO repayment schedule to the borrower and the employer 30 days prior to the date repayment begins.

4.2.7.A.1.c. The lender shall forbear and accrue interest from the date of disbursement through the first payment due date.

5.3.F. Forbearance may be granted for prior periods of delinquency or future periods or a combination of both, not to exceed six months per agreement.

5.3.G. Thirty days prior to the end of the date of a forbearance the lender shall send the borrower and employer, if applicable, a new repayment schedule establishing the first payment due date not more than 30 days after the end date of the forbearance.

Interested persons may submit written comments on the regulations until 4:30 p.m., May 20, 1994 addressed to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Employment Opportunity Program Due Diligence Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated cost to print and disseminate the changed policy to the two currently involved participants is $5, which funds have been budgeted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No change in revenue collections is anticipated to result from this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Directly affected persons will more clearly understand the due diligence procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment will result from this rule.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Application Deadline

The Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to amend the Scholarship and Grant Policy and Procedure Manual to revise III C.1)a.; IV C.1)a.; V C.1)a. and VI C.1)a. to read as follows:

"Submit the completed Free Application for Federal Student Aid (FAFSA) by the deadline for state student aid defined in Chapter IX, Section G, of this manual and in the instructions for the FAFSA."

and to add paragraph IX, General Scholarship/Grant Policy, G to read as follows:

"Application Deadlines. Applicants for the Louisiana Tuition Assistance Plan (TAP), T.H. Harris Scholarship, Paul Douglas Teacher Scholarship and Rockefeller State Wildlife Scholarship programs must:

1. for the 1994-95 award year, complete and mail either the Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by April 1, 1994. As proof of compliance with this requirement, OSFA will accept the following:

a. ESAR record indicates that the original 1994-95 application was received by the processor prior to April 16, 1994;

b. verbal or written verification, by federal processor staff to OSFA staff, that the original 1994-95 application was received by the processor prior to April 16, 1994;

c. a certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated April 1, 1994, or prior;

d. other forms of verification, including notarized or certified statements, will not be accepted as proof of compliance with the deadline requirement;

2. for the 1995-96 and subsequent award years, complete and mail either the Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by March 15, to be received at the address on the FAFSA by April 1, or the next business day if the first falls on a weekend or holiday. As proof of compliance with this requirement, OSFA will accept the following:

a. a certificate of mailing, registered, certified, certified/ return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to March 16;

b. ESAR record indicates that the original application was received by the processor by April 1;

c. verbal or written verification, by federal processor staff to OSFA staff, that the original application was received by the processor by April 1;

d. other forms of verification, including notarized or certified statements, will not be accepted as proof of compliance with the deadline requirement."

Interested persons may submit written comments on the regulations until 4:30 p.m., May 20, 1994, addressed to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Application Deadline

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated cost to print and disseminate the changed policy is $25, which funds have been budgeted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No revenue collections will result from this policy clarification.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Directly affected persons will find application deadlines are more clearly understood.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this clarification.

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
Radiation Protection Division

Radiation Protection Definitions (LAC 33:XV.102) (NE13)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2101 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950,

et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection Division regulations, LAC 33:XV.Chapter 1, (Log NE13).

This rule will amend the Radiation Protection Division's definitions used throughout LAC 33:XV. These definitions are required by the Nuclear Regulatory Commission (NRC). This regulation will incorporate standards set by the NRC in their federal rule published final in the *Federal Register* (Volume 56, Number 98, Page 23391) on May 21, 1991. The NRC states in this rule that "Agreement States" have three years to adopt these regulations. The deadline for Louisiana to adopt this regulation was to be January, 1994. These definitions were inadvertently omitted during a previous rulemaking.

The full text of this proposed rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on April 26, 1994, 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, May 3, 1994, 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 NE13.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Radiation Protection Regulation II

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 cost or economic benefit to directly affected persons is anticipated as a result of this rule. However, it is required to maintain authorization from the NRC to act as an Agreement State.

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 Solid and Hazardous Waste
Solid Waste Division

Certified Operators for Type II Solid Waste Disposal and Processing Facilities (LAC 33:VII.721-725) (SW12)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste Division Regulations, LAC 33:VII.Chapter 7.Subchapter D, (SW12).

At the present time Type I and II solid waste disposal and processing facilities are required to have operators certified in accordance with the Louisiana Administrative Code, Title 46, Part XXIII. These proposed regulations will require Type III (construction and demolition, woodwaste, composting, separation sites) solid waste facilities receiving residential or commercial solid waste to have the correct number and levels of certified operators as required by the LAC, Title 46, Part XXIII.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 1. Solid Waste Regulations
Chapter 7. Solid Waste Standards
Subchapter D. Minor Processing and Disposal Facilities
§721. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities (Type III)

* * *

[See Prior Text in A - B.2]

3. Facilities receiving residential and commercial solid waste shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Solid Waste Division shall be notified within 30 days of any changes in the employment status of certified operators.

* * *

[See Prior Text in C - E.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:

§723. Composting Facilities (Type III)

* * *

[See Prior Text in A - B.2]

3. Facilities receiving residential and commercial solid waste shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Solid Waste Division shall be notified within 30 days of any changes in the employment status of certified operators.

* * *

[See Prior Text in C - D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:

§725. Separation Facilities (Type III)

* * *

[See Prior Text in A - B.2]

3. Facilities receiving residential and commercial solid waste shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Solid Waste Division shall be notified within 30 days of any changes in the employment status of certified operators.

* * *

[See Prior Text in C - D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:

A public hearing will be held on April 26, 1994, 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, May 3, 1994, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Post Office 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 SW12.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Certified Operators for Type III Solid Waste Disposal and Processing Facilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs or savings involved in the implementation of the proposed rule as existing staff will perform all necessary functions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenues are expected to increase by $29,200 in FY 93-94 as a result of solid waste operators being certified at facilities which previously did not require certified operators. Certifications are for four years so this revenue will reoccur.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Directly affected persons or facilities will pay approximately $29,200 in certification fees in FY 93-94 and every fourth year thereafter. During the four year certification period, affected persons or facilities will spend approximately $43,800 on training in solid waste facility operation to meet recertification requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition. There is the possibility that some solid waste operators may lose employment as a result of failure to pass the solid waste operator certification test.

Glenn A. Miller
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Definitions for Calculation of Benefits

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity (fund), pursuant to R.S. 11:3363(F), proposes to restate the formal rules and regulations applicable to interpretation of the terms "average compensation," "average salary" and "year" as utilized in the fund's enabling statute, R.S. 11:3361 (formerly 33:2101) et seq. for purposes of calculation of a firefighter's retirement benefit.

Rule I. Definitions

1. The term "year" when appearing in the term "best year of service," R.S. 11:3386 (formerly R.S. 33:2117.5) shall mean any 12 consecutive month period commencing on any day and date preceding the firefighter's retirement that results in the highest "average compensation," as defined in Rule III.1 hereof.

2. The term "year" when appearing in the term "last year of service," R.S. 11:3377(A)(1), (2) and (3) (formerly R.S. 33:2113.1(A)(1), (2) and (3)), shall mean the consecutive 12-month period ending with the day and date of the firefighter's last day of service prior to retirement.

3. The term "years" when appearing in the term "highest four consecutive years of service," R.S. 11:3384 (formerly R.S. 33:2117.3) shall mean any four consecutive years ending on any day and date preceding the firefighter's last day of service that results in the "highest four consecutive years of service."

4. The term "split" when utilized herein in regard to "year" shall mean that the "year" in question is not a calendar year and therefore ends on a day and date other than December 31.

Rule II. General

1. Under no circumstances shall the terms "average compensation" and "average salary" be interpreted to include more than one annual excess millage payment in any given "year."

2. Under no circumstances shall a different "year" be utilized for purposes of calculating the value of the different components included in "average compensation" or "average salary," except in regard to excess millage payments, as specified herein.

3. Under no circumstances shall excess millage paid to a firefighter for any period less than a full calendar year be annualized for purposes of calculating a retirement benefit, nor shall excess millage paid to the firefighter in the calendar year of his retirement be utilized in his benefit calculation unless that calendar year is also a benefit "year."

Rule III. Calculation of Benefit Amount

1. "Average compensation," as appearing in R.S. 11:3386 (formerly R.S. 33:2117.5), for purposes of identifying "best year of service," and in R.S. 11:3377(A)(1), (2) and (3) (formerly R.S. 33:2113.1(A)(1), (2) and (3)), for purposes of calculating the benefit attributable to the "last year of service," shall be the sum of the following components:

(a) if the "year" under review for purposes of calculating the firefighter's retirement benefit is a split "year:"

(A) base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the "year" under review, irrespective of date of payment; plus either (B)(i) or (ii) below, as applicable:

(B)(i) if the excess millage for the last complete calendar year included in the "year" under review has not yet been paid to the firefighter, the higher of the two excess millage amounts already paid to him for the two consecutive calendar years immediately prior thereto, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last such complete calendar year is higher than the excess millage figure utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

(ii) if the excess millage for the last complete calendar year included in the "year" under review has already been paid, the highest of the three excess millage amounts paid to the firefighter for the three consecutive calendar years ending with the last complete calendar year included in the "year" under review, irrespective of the date of payment;

(b) if the "year" under review for purposes of calculating a firefighter's retirement benefit is a calendar year:

(A) base pay (including regularly paid millage) overtime, and State Supplemental Pay earned in the current calendar "year" under review, irrespective of the date of payment, plus either (B)(i) or (ii) below, as applicable:

(B)(i) if the excess millage for the calendar "year" under review has not yet been paid to the firefighter, the higher of the two excess millage amounts already paid to him for the two calendar years immediately preceding that "year," irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the calendar "year" under review is higher than the excess millage figure utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

(ii) if the excess millage for the calendar "year" under review has already been paid to the firefighter, the highest of the three excess millage amounts paid to the firefighter for the three consecutive calendar years ending with the calendar "year" under review, irrespective of the date of payment.

2. The term "average salary" when appearing in R.S. 11:3384 (formerly R.S. 33:2117.3), for purposes of calculating the "highest four consecutive years" of service, shall mean:

(a) if the four "years" under review for purposes of calculating the firefighter's retirement benefit begin and end with a split "year:"

(A) base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the four "years" under review, irrespective of the date of payment; plus either (B)(i) or (ii) below, as applicable:

(B)(i) if the excess millage payable for the last complete calendar year included in the four "years" under review has not yet been paid to the firefighter, the sum of the excess millage amounts already paid for the four consecutive calendar years ending with the last complete calendar year included in the four "years" under review, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last complete calendar year included in the four "years" under review is higher than that paid for the first complete calendar year utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

(ii) if the excess millage amount payable for the last complete calendar year included in the four "years" under review has already been paid, the sum of the excess millage amounts paid to the firefighter for any four consecutive

calendar years of the five consecutive calendar years ending with the last complete calendar year included in the four "years" under review, irrespective of the date of payment;

(b) if the four "years" under review for purposes of calculating a firefighter's retirement benefit are calendar years:

(A) base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the four "years" under review, irrespective of the date of payment; plus either (B)(i) or (ii) below:

(B)(i) if the excess millage payable for the last calendar year included in the four consecutive calendar "years" under review has not yet been paid to the firefighter, the sum of the excess millage amounts already paid for the four consecutive calendar years ending with the last calendar year included in the four "years" under review, irrespective of date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last calendar year included in the four calendar "years" under review is higher than that paid for the first calendar year included in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

(ii) if the excess millage amount payable for the last calendar year included in the four calendar "years" under review has already been paid, the sum of the excess millage amounts paid to the firefighter for any four consecutive calendar years of the five consecutive calendar years ending with the final calendar "year" under review, irrespective of the date of payment.

A public hearing will be conducted by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans at 10 a.m. on April 27, 1994 at 329 South Dorgenois Street, New Orleans, LA 70119.

Any interested party may submit data, views, or arguments orally or in writing concerning these rules or may make inquiries concerning the adoption of these rules to Bernard V. Nicolay, Secretary-Treasurer of the Board of Trustees, 329 South Dorgenois Street, New Orleans, LA 70119.

William M. Carrouche
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Definitions for Calculation of Benefits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only estimated implementation costs which is anticipated will be the cost of printing and distributing copies of the proposed rules and regulations to persons making a request for a copy of such rules and regulations. Copying cost (if every participant in the Firefighters' Pension and Relief Fund requested one copy) is estimated at $262.92.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption and implementation of the rules and regulations for calculation of firefighters' retirement benefits should not have any effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Adoption and implementation of the rules and regulations for calculation of firefighters' retirement benefits should not have any effect on costs and/or economic benefits to any persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption and implementation of the rules and regulations for calculation of firefighters' retirement benefits should not have any effect on competition and employment.

Jeanne Cresson
Fund Counsel

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of the State Register

Official Text of Published Documents (LAC 1:501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Office of the Governor, Division of Administration, Office of the State Register proposes to amend LAC 1:501 as follows.

Title 1
RULES ON RULES
Chapter 5. Effect of Publication
§501. Official Text of Published Documents

A. Asterisks

1. Where more than one section of rules is being amended in a single document, and the sections are not consecutive, then the omitted sections are indicated by a row of three asterisks.

2. Where multiple sections are being amended and the sections are not consecutive but there are no omitted sections of the text, do not insert asterisks. Example: §§103 and 105 both being amended in a single amendment package would not have asterisks between them if no §104 exists.

3. Amending Entire Section. Asterisks may not be used in place of any material not needing revision when an entire chapter or other body of the rule subdivision is being amended. All language intended to be part of the new chapter must be included.

4. Amending Parts of a Section. When a designated subdivision of a section is being amended, a row of three asterisks is inserted to indicate any omitted subdivisions of the section, both before or after the amended portion. Any introductory language to a designated subdivision must be included in the text.

B. The only text of any document required or authorized to be published under this Title, shall from the date of such publication be the only valid and enforceable text of such

document regardless of any discrepancy between such official text and the agency text of such document that thereafter any amendment to such document shall be drawn as an amendment to the official text thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the State Register, LR 20:

Interested persons may submit written comments on the proposed rule until April 22, 1994 to Nancy Midkiff, Director, Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095.

Whit Kling
Assistant Commissioner for Finance

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Official Text of Published Documents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs to state or local governmental units in implementing this proposed 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 costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Nancy Midkiff
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Advertising by Dentists (LAC 46:XXXIII.301)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq. and R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.301, Advertising by Dentists.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 3. Dentists
§301. Advertising by Dentists

A. The provisions of this Section prescribe advertising requirements in addition to those set forth in R.S. 37:774 and R.S. 37:775 for dentists licensed and practicing in this state. The provisions in this Section shall govern any and all forms of advertisements including but not limited to office signs, listings in yellow pages of telephone directories and advertisements in all forms of printed and electronic media.

B. The board has reviewed and approved the Standards for Advanced Specialty Education Programs set forth by the Commission on Dental Accreditation of the American Dental Association in the following specialties:

C. Definitions

Dental Public Health—the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care program, as well as the prevention and control of dental diseases on a community basis. Implicit in this definition is the requirement that the specialist have broad knowledge and skills in public health administration, research methodology, the prevention and control of oral diseases, the delivery and financing of oral health care, and the identification and development of resources to accomplish health goals.

Endodontics—the branch of dentistry that is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompasses the basic clinical sciences including biology of the normal pulp; the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp; and associated periradicular condition.

Oral and Maxillofacial Surgery—the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

Oral Pathology—the specialty of dentistry and discipline of pathology which deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes and effect of these diseases. The practice of oral pathology includes research; diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations; and management of patients.

Orthodontics—the area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of

functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations of their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiological and esthetic harmony among facial and cranial structures.

Pediatric Dentistry—is the practice and teaching of comprehensive preventive and therapeutic oral health care for children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical and/or emotional problems.

Periodontics—is that specialty of dentistry which encompasses the prevention, diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function and esthetics of these structures and tissues.

Prosthodontics—the branch of dentistry pertaining to the restoration and maintenance of oral function, comfort, appearance and health of the patient by the restoration of the natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissue with artificial substitutes.

D. Specialists must disclose the name of their specialty in print larger and/or bolder and noticeably more prominent than any services offered in their specialty or related area of dentistry.

E. Those dentists who have not completed a post-doctoral training program in a recognized specialty of dentistry listed in Subsection C of this Section must advertise their area of practice in such a way that the public is not misled into believing that the dentist has met the educational requirements for the specialties listed.

F. Anyone not qualified for the specialties listed in Subsection C must disclose "General Dentistry" or "Family Dentistry" in print larger and/or bolder and noticeably more prominent than any area of practice or service.

G. In radio or television advertising, the disclosure must be made in the same mode (visual or audio) as the representation concerning the area(s) of practice. Audio disclosures must be made at the same decibel level as the representation concerning the area(s) of practice.

H. Those group practices which include general dentists and specialists must list the phrase "General Dentistry and Specialty Practice" or "Family Dentistry and Specialty Practice" larger and/or bolder and noticeably more prominent than any service offered. All dentists associated with the group and their area of practice shall be listed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March, 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Advertising by Dentists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation of costs or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Anesthesia/Analgesia Administration
(LAC 46:XXXIII.Chapter 15)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq. and R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to adopt LAC 46:XXXIII.Chapter 15, Anesthesia/Analgesia Administration.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 15. Anesthesia/Analgesia Administration
§1501. Scope of Chapter

The rules of this Chapter govern the administration of anesthesia/analgesia by persons licensed to practice dentistry in the state of Louisiana to dental patients. The rules of this Chapter are promulgated in order to supplement the provisions of the Dental Practice Act, R.S. 37:751 et seq., particularly R.S. 37:793.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1503. Nitrous Oxide Inhalation Analgesia

A. No dentist shall use nitrous oxide inhalation analgesia unless said dentist has received authorization by the board evidenced by receipt of a permit from the board.

B. In order to receive authorization the dentist must show and produce evidence that he/she complies with the following provisions:

1. completion of a board-approved course which conforms to American Dental Association guidelines; and

2. provide proof of current certification in cardiopulmonary resuscitation, Course "C", Basic Life Support for the Health Care Provider as defined by the American Heart Association, or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1505. Conscious Sedation with Parenteral Drugs

A. No dentist shall use parenteral drugs for the purpose of achieving conscious sedation unless said dentist has received authorization by the board evidenced by receipt of a permit from the board.

B. In order to receive authorization the dentist must show and produce evidence that he/she complies with the following provisions:

1. completion of an advanced training program beyond the pre-doctoral dental school level accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in Section 1505 of this Chapter; or

2. utilization of the services of a trained medical doctor, doctor of osteopathy trained in conscious sedation with parenteral drugs, certified registered nurse anesthetist, a dentist who has successfully completed a program consistent with Part II of the American Dental Association Guidelines on Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, or a qualified oral and maxillofacial surgeon provided that said doctor or certified registered nurse anesthetist must remain on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered; or

3. successful completion of a board-approved continuing education course as described in Part III of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry provided the applicant has held a license to practice dentistry for a minimum of three years. The board has determined that 80 hours of clinical airway management would be a minimum to achieve competency as described in Part III of the previously mentioned guidelines.

C. In addition to the requirements of Subsection B of this Part the dentist must provide proof of current certification in cardiopulmonary resuscitation, Course "C", Basic Life Support for the Health Care Provider as defined by the American Heart Association, or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1507. General Anesthesia/Deep Sedation

When general anesthesia or deep sedation are administered, the provisions of this Subsection apply:

1. no dentist shall administer general anesthesia or deep sedation unless said dentist has received authorization by the board evidenced by receipt of a permit from the board.

2. in order to receive authorization the dentist must show and produce evidence that he complies with the following provisions:

a. completion of an oral and maxillofacial surgery training program accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in §1509 of this Chapter; or successful completion of a program which complies with Part II of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dental Education at the Advanced level.

b. provide proof of current certification in cardiopulmonary resuscitation, Course "C", Basic Life Support for the Health Care Provider as defined by the American Heart Association, or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1509. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Conscious Sedation with Parenteral Drugs and General Anesthesia/Deep Sedation

A. Nitrous Oxide Inhalation Analgesia

1. To be permitted, the applicant must have successfully completed courses prescribed by the faculty of a dental school which would demonstrate mastery of scientific knowledge pertaining to use thereof and have documented a minimum of 12 successful cases of induction and recovery; or

2. At the post-doctoral level, the applicant must have successfully completed a continuing education course which includes a minimum of 14 hours, including a clinical component during which competency in nitrous oxide inhalation analgesia techniques are demonstrated.

B. Conscious Sedation with Parenteral Drugs

Receipt of formal post-doctoral training in the use of parenteral drugs and competency to handle all emergencies relating to parenteral sedation providing such program consists of a minimum of 60 hours of instruction and 100 hours of clinical experience which includes at least 20 documented cases of parenteral sedation.

C. Deep Sedation and General Anesthesia

Successful completion of an American Dental Association accredited program in oral and maxillofacial surgery or a program which meets or exceeds the specifications outlined in Part II of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry adopted by the American Dental Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1511. Required Facilities, Personnel and Equipment for Sedation Procedures

A. The following are minimum requirements for facilities and equipment that must be available for use with sedation procedures:

1. the dental operatory where sedation procedures are performed must be large enough to accommodate the patient adequately on a dental chair and to permit an operating team consisting of three individuals to move about the patient.

2. the dental chair must permit the patient to be positioned so that the operating team can maintain the airway, quickly alter the patient position in an emergency, and provide a firm platform for performing cardiopulmonary resuscitation should it become necessary.

3. there must be a lighting system which is adequate to permit evaluation of the patient's skin and mucosal color.

4. there must be suction equipment which permits aspiration of the oral and pharyngeal cavities. A back-up suction device which can operate at the time of a general power failure must be available.

5. there must be an oxygen delivery system with adequate full-face masks and appropriate connectors capable of delivering a positive pressure oxygen supply to the patient.

6. nitrous oxide equipment should:

a. conform to all requirements as established by the Council on Dental Materials and Devices of the American Dental Association;

b. provide a maximum of 100 percent and never less than 20 percent oxygen concentration at appropriate flow rates;

c. have a functional fail-safe system;

d. utilize a scavenger system in working condition;

e. be free of any obvious leaks, such as those indicated by hissing sounds or poor connections or tears of the delivery tubing or reservoir bag.

7. ancillary equipment must be available in the operatory where the sedation procedure is being performed, must be maintained in good operating condition, and must include the following:

a. oral airways;

b. tonsillary or pharyngeal-type suction; device adaptable to all office outlets;

c. sphygmomanometer of appropriate size for the patient and stethoscope;

d. adequate equipment for the establishment of an intravenous infusion when parenteral sedation procedures are performed;

e. pulse oximeter when parenteral sedation procedures are performed.

8. there must be emergency equipment and drugs available in an emergency kit or crash cart which is immediately available to the dental operatory where the sedation procedure is being performed. These kits must include the necessary drugs and equipment to resuscitate a non-breathing unconscious patient and sustain life while the patient is being transported. There should be a list in each kit of the contents and a record of when the contents were checked. The following drugs should be available in the kit:

a. epinephrine;
b. vasopressor;
c. corticosteroid;
d. bronchodilator;
e. appropriate drug antagonists;
f. antihistaminic;
g. anticholinergic;
h. coronary artery vasodilator;
i. anticonvulsant;
j. oxygen;
k. 50 percent dextrose or other antihypoglycemic; and
l. working electrocardiograph and defibrillator when general anesthesia or deep sedation are utilized.

B. Personnel

1. The authorized dentist must insure that every patient receiving nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, deeps sedation or general anesthesia is constantly attended.

2. Direct supervision by the authorized dentist is required when nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, deep sedation or general anesthesia is being administered.

3. When nitrous oxide inhalation analgesia is being administered one auxiliary who is currently certified in basic life support must be available to assist the dentist in an emergency.

4. When conscious sedation with parenteral drugs is being administered one auxiliary who is currently certified in basic life support must be available to assist the dentist in an emergency.

5. When deep sedation or general anesthesia is being administered two auxiliaries who are currently certified in basic life support must be available to assist the dentist in an emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1513. Exceptions

A. The board, based on formal application stating all particulars which would justify the granting of such

anesthesia/analgesia permit, may grant a permit authorizing the utilization of nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, deep sedation or general anesthesia to those licensed dentists who have been using the requested sedation procedures in a competent and effective manner prior to the effective date of this Chapter, but who have not had the benefit of formal training as required in this Chapter or in R.S. 37:793.

B. The board shall continue to renew the anesthesia/analgesia permits of dentists possessing such permits at the time these rules become effective provided there have been no disciplinary actions requiring suspensions or revocations of said permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Anesthesia/Analgesia Administration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation of costs or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Continuing Education Requirements
(LAC 46:XXXIII.Chapter 16)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq. and R.S. 37:760(8)(13), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to adopt LAC 46:XXXIII.Chapter 16, Continuing Education Requirements.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 16. Continuing Education Requirements

§1601. Scope of Chapter

The rules of this Chapter govern the board's minimum continuing education requirements for relicensure and recertification of dentists and dental hygienists as authorized by R.S. 37:760(13), and provides for record keeping, penalties, reporting, exemptions, approved courses of instruction, and all related matters. Except where noted, these rules shall apply equally to dentists and dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1603. Effective Date

Beginning January 1, 1995, dentists and dental hygienists licensed to practice in the state of Louisiana, in addition to other requirements, shall complete the minimum hours of continuing education set forth in this Chapter during each calendar year in order to renew or have recertified their licenses, permits or certificates necessary to practice dentistry or dental hygiene in this state. These continuing education requirements also apply to all dentists and dental hygienists licensed to practice in Louisiana, but are practicing outside of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1605. Penalties

Failure to comply with the requirements of this Chapter may be grounds for disciplinary action against the licensee under R.S. 37:776(A)(3)(24) for dentists, and R.S. 37:777(3)(18) for dental hygienists setting forth cause for the non-issuance, suspension, revocation, or imposition of restrictions on one's license to practice dentistry or dental hygiene, and/or imposition of a fine as set forth in R.S. 37:780(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1607. Exemptions

A. Continuing education requirements shall not apply to:

1. dentists enrolled in full-time post-graduate specialty training;

2. dental hygienists enrolled in full-time post-graduate training;

3. dentists who are retired from the practice of dentistry;

4. dental hygienists who are retired from the practice of dental hygiene;

5. dentists in the first calendar year of their graduation from dental school;

6. dental hygienists in the first calendar year of their graduation from dental hygiene school.

B. In the event of unusual circumstances or special hardship, the board may excuse licensees from continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1609. Reporting and Record Keeping

A. Upon renewal of a dental or dental hygiene license, the licensee must list on a form provided by the board the date, location, sponsor, subject matter and hours completed during the past calendar year of continuing education courses. The licensee must attest to the truthfulness of his report by executing his signature where required on the reporting form.

B. The licensee shall retain receipts, vouchers, or certificates as may be necessary to document completion of the required number of continuing education hours. With cause the board may request such documentation. Without cause the board may request such documentation from licensees selected at random.

C. Each dentist and dental hygienist shall maintain records of his/her continuing education for three calendar years following the calendar year in which the course was completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1611. Continuing Education Requirements for Relicensure of Dentists

A. Unless exempted under LAC 46:XXXIII.1607, each dentist shall complete a minimum of 20 hours of continuing education during each calendar year for the renewal of his/her license to practice dentistry.

B. At least one-half of the minimum credit hours (10) must be attained in clinical courses pertaining to the actual delivery of dental services to the patient.

C. No more than 10 hours of the required 20 hours can be completed from the following:

1. practice management courses;

2. audio and/or video tapes and those journals requiring completion of a written examination to secure proof of hours;

3. Three credit hours for successful completion of cardiopulmonary resuscitation (CPR) courses may be used to satisfy continuing education requirements.

D. Continuing education ordered as a result of disciplinary matters shall not serve as credit for mandatory continuing education unless specifically authorized in a consent decree or in an order issued by the board.

E. Dentists are not allowed continuing education credit for courses sponsored and/or approved for dental hygiene continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1613. Continuing Education Requirements for Relicensure of Dental Hygienists

A. Unless exempted under LAC 46:XXXIII.1607, each dental hygienist shall complete a minimum of 12 hours of continuing education during each calendar year for the renewal of his/her license to practice dental hygiene.

B. At least one-half of the minimum credit hours (six) must be attained in clinical courses pertaining to the actual delivery of dental services to the patient.

C. No more than six hours of the required (12) hours can be completed from the following:

1. practice management courses;

2. audio and/or video tapes and those journals requiring completion of a written examination to secure proof of hours;

3. three credit hours for successful completion of cardiopulmonary resuscitation (CPR) courses may be used to satisfy continuing education requirements.

D. Continuing education ordered as a result of disciplinary matters shall not serve as credit for mandatory continuing education unless specifically authorized in a consent decree or in an order issued by the board.

E. Dental hygienists are allowed continuing education credit for courses sponsored and/or approved for dentists continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

§1615. Approved Courses

A. Courses sponsored or approved by the following organizations shall be accepted by the board:

1. American Dental Association and its affiliate associations and societies;

2. American Dental Hygienists' Association and its affiliate associations and societies;

3. Academy of General Dentistry;

4. National Dental Association and its affiliate societies;

5. colleges and universities with dental programs which are accredited by the Commission on Dental Accreditation of the American Dental Association when continuing education courses are held under their auspices;

6. armed services and veterans administration dental departments;

7. national, state and district associations and/or societies of all specialties in dentistry recognized by the board, and study clubs approved by said specialty societies;

8. American Heart Association as a provider of cardiopulmonary resuscitation courses (Course "C" Basic Life Support for the health care provider).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation of costs or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Directly affected persons will incur expenses in attaining the continuing education requirements of this Chapter. These costs will be minimal as most directly affected persons already are required to obtain continuing education as requirements for membership in dental and dental hygiene associations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be effect on competition and employment.

C. Barry Ogden
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Expanded Duty Dental Assistants Examinations
LAC 46:XXXIII.506)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq. and R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to adopt LAC 46:XXXIII.506, Dental Assistants National Board Examinations for Expanded Duty Dental Assistant certification.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions
Chapter 5. Dental Assistants
§506. Dental Assisting National Board Examinations for Expanded Duty Dental Assistant Certification

A. The following examinations offered by the Dental Assisting National Board on a recurring basis are approved by the Louisiana State Board of Dentistry for certification in the Expanded Duty Dental Assistant status.

1. Certified Dental Assistant
2. Certified Oral and Maxillofacial Surgery Assisting
3. Certified Orthodontic Assisting

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Dental Assisting National Board Examinations for Expanded Duty Dental Assistant Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation of costs or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Continuing Education Approval by NCERS
(LAC 46:XLIX.905, 907, 1101)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules and regulations relative to licensing and regulating nursing facility administrators. The amendments include minor technical and grammatical revisions and clarifications to current rules in effect.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 9. Continuing Education

§905. Registration of Institutions as Providers of Continuing Education Courses

A. - C. ...

D. National Continuing Education Review Seminar (NCERS) approved programs are exempt from the requirement that providers be approved by the board. The approval of programs by NCERS, operated by the National Associations of Boards of Examiners for Nursing Home Administrators, Inc., meets board requirements.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992); amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:

§907. Approval of Programs of Study

A. Approval of individual programs is given when:

1. - 2. ...

3. it is a college course, including correspondence, on any health care subject, or the course is taken for credit toward a college degree;

4. ...

5. it is a home study course which has been approved by NCERS or reviewed and approved by the board's education committee.

6. - 8. ...

B. ...

1. - 2. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals. Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992); amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:

Chapter 11. Licenses

§1101. License Form

A. ...

1. Upon completion of his AIT program an applicant who has passed his examinations shall remit the final report and the Certificate of Completion immediately. He shall complete all other requirements and be licensed within 35 days of completion of the AIT, unless otherwise authorized by the board.

2. An applicant who completes his AIT program before passing the examinations shall remit the final report and Certificate of Completion immediately, and shall undergo any required oral examination as scheduled by the board. Within 10 working days after receiving notice he has passed his examinations he shall remit his Initial Registration form with fees, unless otherwise authorized by the board.

B. Any license issued by the board shall be under the signature of the chairman and the executive director of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals. Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992); amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:

Interested persons may submit written comments through the close of business at 4 p.m., April 30, 1994 to Van Weems, Executive Director, State Board of Examiners of Nursing Facility Administrators, 4560 North Boulevard, Suite 115A, Baton Rouge, LA 70806.

Van T. Weems
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education; Licenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs to state or local governments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state and local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to affected persons or government.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Van Tyson-Weems
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Examinations; Administrator-in-Training
(LAC 46:XLIX.503-511 and 701)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules and regulations relative to licensing and regulating nursing facility administrators. The amendments include minor technical and grammatical revisions and clarifications to current rules in effect.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 5. Examinations

§503. Pre-examination Requirements: Conditions Precedent

A. No person shall be admitted to or be permitted to take an examination for licensing as a nursing home administrator unless he shall have first submitted evidence satisfactory to the board that he:

1. is 21 years of age or older;

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20:

§509. Subjects for Examination and Continuing Education

A. Every applicant for a license as a nursing home administrator, after meeting the requirements for qualification for examination as set forth in §503 of these rules and regultions, shall successfully pass a written examination. The following shall be considered as guidelines with respect to the subjects for the written examination and continuing education:

1. - 2. ...

3. resident care;

4. - 5. ...

B. ...

C. The board may conduct courses on nursing facility administration, especially designed for applicants and for licensees, when the demand is sufficient to defray expenses. Individuals who desire this course shall pay $15 per hour of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, amended and promulgated LR 9:684 (October 1983), amended LR 14:23 (January 1988), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20:

§511. Grading Examinations

Every candidate for licensing as a nursing facility administrator shall pass the State Standards Examination and the N.A.B. National Examination by scores established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20:

Chapter 7. Administrator-in-Training (AIT)

§701. Program

A. An applicant must serve as a full-time (40 hours per week) administrator-in-training for a minimum of six consecutive months. The program may be completed or begun before of after taking examinations so long as it is carried our strictly according to Chapter 7. During this time the AIT must work under close, direct, personal, on-site supervision of a fill-time preceptor who shall be administrator serving as assistant administrator in the facility in which the AIT undertakes training.

1. Any part-time or full-time employment while undertaking an AIT program shall have prior approval of the board.

2. No person shall undertake as AIT program while serving as director of nursing or head of any other department within a nursing home.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992); amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:

Interested persons may submit written comments through the close of business at 4 p.m., April 30, 1994 to Van Weems,

Executive Director, Board of Examiners of Nursing Facility Administrators, 4560 North Boulevard, Suite 115A, Baton Rouge, LA 70806.

Van T. Weems
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Examinations; Administrator-in-Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to affected persons or non-governmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Van Tyson-Weems
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Meetings; Powers; Duties (LAC 46:XLIX.301-305)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules and regulations relative to licensing and regulating nursing facility administrators. The amendments include minor technical and grammatical revisions and clarifications to current rules in effect.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Board of Examiners of Nursing Facility Administrators
Chapter 3. Board of Examiners
§301. Meetings

A. - C. ...

D. The board as a public body operates in accord with R.S. 42:1 - R.S. 4:13. The conduct of meetings, notices, voting, record keeping, and so on shall be in accord with these statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2503 and R.S. 37:2504(C).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20:

§303. General Powers

A. ...

B. From time to time the board shall publish a newsletter and a directory of licensed nursing facility administrators, and shall make and publish such rules and regulations not inconsistent with law as it may deem necessary and proper for the execution and enforcement of the law and rules and regulations governing the licensing and registration of nursing facility administrators.

C. ...

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

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20:

§305. Officers and Duties

A. - C. ...

D. The executive director shall conduct all routine correspondence for the board, shall issue all notices of meetings and hearings, shall have custody of all books, records and property of the board and shall perform all duties pertaining to the office of executive director. The executive director shall biennially, in accordance with the directives of the state office of the legislative auditor, submit financial records for audit. The audit results, on receipt, will be promptly distributed to all members of the board for review.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2503 and R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20:

Interested persons may submit written comments through the close of business at 4 p.m., April 30, 1994 to Van Weems, Executive Director, State Board of Examiners of Nursing Facility Administrators, 4560 North Boulevard, Suite 115A, Baton Rouge, LA 70806.

Van T. Weems
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Meetings, Powers, Duties

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to affected persons or nongovernmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Van Tyson-Weems
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Veterinary Medicine

Veterinary Practice (LAC 46:LXXXV.700, 704)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 and 37:1523 et seq., notice is hereby given that the Board of Veterinary Medicine intents to amend LAC 46:LXXXV.700 and adopt LAC 46:LXXXV.704.

This rule will allow licensed veterinarians to legally provide necessary legend (FDA-regulated) drugs to bona fide governmental employees working as animal control officers.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice
§ 700. Definitions

Animal Control Officer—a bona fide employee of a governmental agency meeting the requirements of R.S. 37:1514(2).

* * *

Legend Drug—any drug or medicinal agent which is not listed as a controlled substance by the U.S. DEA but which carries the legend "Federal (USA) law restricts this drug to use by or on the order of a licensed veterinarian."

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:

§704. Consulting and Providing Legend Substances

A. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local governmental agency to perform animal control services on behalf of the local governmental agency seeks to administer legend drugs to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Louisiana Board of Veterinary Medicine and who obtains the legend drugs.

B. Said legend drugs must be stored and administered under the supervision of the licensed veterinarian. Supervision means that the licensed veterinarian must provide the employee(s) of the animal control agency with written instructions and follow-up assistance on the proper storage, use and administration of the drug(s) being provided.

C. The licensed veterinarian may submit to the board for review and/or approval, a written protocol of his supervision of the animal control agency's employees.

D. The licensed veterinarian shall also require the animal control agency's employees to maintain record keeping logs which shall include but would not be limited to the following:

1. date of each use of a legend drug;
2. species of animal;
3. estimated weight of animal;
4. dose administered;
5. name of animal control officer administering the drug.

E. Said records should be reviewed by the supervising veterinarian on at least a quarterly basis.

F. A licensed veterinarian who chooses to assist an animal control shelter in the method proscribed in this Section shall be solely responsible for determining which drugs he is willing to provide and in what quantities.

G. This Section does not pertain to any drugs(s) listed in any DEA classification schedule (also known as controlled drugs) including sodium pentobarbital.

H. The definitions located in §700 of this Chapter shall apply to all terms used in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 20:

Interested persons my submit written comments on the proposed rule, no later than 12 noon, April 9, 1994, to: Vikki Riggle, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203.

A public hearing on this matter will be held at the office of the Board of Veterinary Medicine, at 10 a.m., Wednesday, April 27, 1994.

Vikki Riggle
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Consulting and Providing Legend Only Substances

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs to any agency are anticipated to result from the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Rule will allow animal control officers working as government employees to obtain necessary drugs without incurring costs of veterinary care for each animal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact is anticipated.

Vikki Riggle
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Sanitary Code—Ban on Prairie Dogs—Chapter III

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Health and Hospitals, Office of Public Health intends to amend Chapter III of the State Sanitary Code as it relates to the prohibition of the importation and/or sale of prairie dogs in Louisiana.

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 to Dr. Louise McFarland, State Epidemiologist, Box 60630, New Orleans, LA 70160, by the close of business on Wednesday, April 20, 1994. She is the person responsible for responding to inquiries regarding this proposed rule.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code—Ban on Prairie Dogs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated cost/savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no anticipated cost, however, the public will save on medical bills by not contracting diseases spread by this animal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment.

Eric T. Baumgartner, M.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Sanitary Code—Swimming/Bathing Places—Chapter XXIV

In accordance with R.S. 40:5 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend the Louisiana *Sanitary Code*, Chapter XXIV, in its entirety, pertaining to swimming pools and natural or semi-artificial swimming or bathing places.

Copies of this proposed, comprehensive amendment to Chapter XXIV of Louisiana *Sanitary Code* may be obtained from the Office of the State Register, 1051 Riverside North, Room 512, Baton Rouge, LA 70804 and from Office of Public Health, Engineering Services Section, Room 403, State Office Building, Box 60630, New Orleans, LA 70160, (504) 568-5100.

Interested persons may submit written comments to C. Russell Rader, P.E., Chief Engineer, Office of Public Health, Engineering Services, Box 60630, New Orleans, LA 70160.

A public hearing on this proposed rule will be held on April 27, 1994 in the Department of Transportation and Development Education Training Room, Third Floor, East Entrance, Capitol Access Road, Baton Rouge, LA at 10 a.m. 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code—Swimming/Bathing Places

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated implementation costs or savings expected to accrue to state or local governmental units, consequent to the promulgation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No demonstrable effect on revenue collections of state or local governmental units is estimated, consequent to the promulgation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed regulations would directly affect the following groups: swimming pool/spa design and fabrication firms, owners of commercial swimming pools/spa facilities; and owners/operators of public bathing/swimming areas. No effect on costs or workload adjustments are estimated to accrue consequent to the proposed regulations because these standards are currently utilized by most manufacturers complying with American National Standards Institute (ANSI) standards in the use of good manufacturing practices (GMP).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will have no demonstrable effect on competition and employment.

Eric T. Baumgartner, M.D., M.P.H.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary

Informed Consent (LAC 48:I.2371-2395)

As authorized by R.S. 40:1299.40(E), 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, Office of the Secretary, in consultation with the Medical Disclosure Panel, is proposing to adopt LAC 48:I.2371-2395, to establish which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and listed on the Consent Form to be signed by the patient and physician before undergoing such treatment or procedure. These rules are in addition to those published in the December 1992, December 1993, and February 1994 issues of the *Louisiana Register*.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Chapter 23. Informed Consent

§2371. Tubes in Ears

A. Persistent infection;

B. Perforation of eardrum or cyst behind the eardrum requiring surgical repair;

C. Need to surgically remove tubes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2373. Adenoidectomy

A. Bleeding;

B. Nasal speech;

C. Nasal regurgitation of food or liquids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2375. Tonsillectomy

A. Bleeding;

B. Injury to nerves to tongue;

C. Nasal speech.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2377. Septoplasty

A. Bleeding;

B. Infection;

C. Injury to nerve of upper teeth;

D. Septal perforation;

E. Spinal fluid leak.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2379. Cauterization of Tissue in the Nose

A. Infection;

B. Scarring with obstruction of breathing;

C. Dryness of nose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2381. Rhinoplasty

A. Bleeding;

B. Infection;

C. Disappointing cosmetic result or failure to achieve desired result;

D. Impaired breathing through nose;

E. Septal perforation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2383. Endoscopic Sinus Surgery

A. Bleeding;

B. Infection;

C. Scar formation;

D. Spinal fluid leak with possible infection of brain tissue;

E. Injury to eye, including blindness;

F. Injury to sense of smell;

G. Injury to tear duct drainage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2385. Radical Neck (Extensive Neck Surgery)

A. Bleeding requiring transfusion;

B. Injury to nerves of shoulder resulting in numbness, pain or loss of function;

C. Injury to voice box resulting in hoarseness or speech impairment;

D. Injury to nerve of diaphragm with possible impairment of breathing;

E. Injury to nerve of tongue resulting in loss of sensation, loss or alteration of sense of taste or possible impairment of speech;

F. Injury to mandibular branch of facial nerve resulting in loss of function of lip or cheek.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2387. Submandibular Gland Surgery

A. Bleeding;

B. Infection;

C. Injury to nerve of lip or tongue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2389. Tympanoplasty (Operation on Eardrum)

A. Infection;

B. Injury to nerve of tongue causing loss of taste;

C. Loss of hearing;

D. Perforation (non-healing);

E. Ringing in ears;

F. Dizziness;

G. Graft failure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2391. Tympanoplasty with Mastoidectomy (Operation on Eardrum and Removal of Bone behind Ear)

A. Infection;

B. Injury to nerves of tongue causing loss of taste;

C. Injury to nerves of face causing paralysis;

D. Loss of hearing;

E. Ringing in ears;

F. Dizziness;

G. Hole in eardrum;

H. Graft failure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2393. Direct Laryngoscopy (Passage of Lighted Tube into the Voice Box)

A. Persistent hoarseness;

B. Broken teeth;

C. Perforation of throat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

§2395. Parotidectomy (Removal of Salivary Gland near the Ear)

A. Bleeding;

B. Infection;

C. Facial nerve palsy;

D. Numbness of ear.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

Interested persons may submit written comments by April 29, 1994, to Donald J. Palmisano, M.D., J.D., Chairman, Medical Disclosure Panel, Department of Health and Hospitals, Box 1349, Baton Rouge, LA 70821-1349. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 2 p.m., Friday, April 29, 1994, 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

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 nongovernmental 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 Justice
Riverboat Gaming Commission

Passenger Embarking (LAC 42:XIII.709)

Under the authority of The Louisiana Riverboat Economic Development and Gaming Control Act, particularly R.S. 4:501 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the chairman gives notice that the rulemaking procedures have been initiated to amend the Louisiana Riverboat Gaming Commission's rules, LAC 42:XIII.709.

The current language contained within LAC 42:XIII.709 reads:

> "Except in the case of emergencies, passengers and crew may embark and disembark a riverboat only at its authorized berths."

The rule is non-specific as to whether or not there are any restrictions on the time periods within which passengers may embark or disembark from a riverboat during periods of unsafe weather or water conditions. The following proposed rule will specify the restrictions, if any, placed upon passengers embarking and disembarking during periods of unsafe weather or water conditions.

LAC 42:XIII.709 is being revised to reflect the Riverboat Gaming Commission's authority to promulgate rules concerning authorized routes, excursions, and berths.

Title 42
LOUISIANA GAMING
Part XIII. Riverboat Gaming
Subpart 1. Riverboat Gaming Commission
Chapter 7. Operating Standards
§709. Passenger Embarking and Disembarking

A. Except in the case of emergencies, passengers and crew may embark and disembark a riverboat only at its authorized berths.

B. In the event that the vessel master, pursuant to the provisions to R.S. 4:525(B)(1)(a), certifies in writing that weather or water conditions make it unsafe for a riverboat to commence or continue on its authorized excursion, and gaming activities are conducted while the vessel is at dockside, there shall be no restriction on the embarking or disembarking of passengers during the period of that excursion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: 895 (July 1993), amended LR 20:

All interested persons are invited to submit written comments on the proposed rules. Such comments should be submitted no later than April 11, 1994, at 5 p.m., to Cletia Smith, Louisiana Riverboat Gaming Commission, Box 44307, Baton Rouge, LA, 70804-4307.

Kenneth E. Pickering
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Passenger Embarking and Disembarking

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No additional costs to state or local governmental units are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is an anticipated increase in revenue collections for the state general fund because the greater egress and ingress on gaming riverboats as a direct result of the adoption of this rule will promote an increase in patronage, thereby, resulting in an increase in the "house wins" on gaming riverboats of which the state of Louisiana receives a percentage of 18.5.

Further, there is an anticipated increase in revenue collections for local funds because the increased patronage will likewise have a positive economic effect on admission fees which are levied and collected by local governing authorities.

Because of the "newness" of the riverboat gaming industry in Louisiana, specific economic estimates cannot, at this time, be given.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is an anticipated increase in receipts and/or income resulting from this rule in regards to the riverboat gaming industry. This increase is based on an assumption that patronage will increase because of more liberal rules regarding embarking and disembarking from gaming riverboats.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is an anticipated increase in the employment on gaming riverboats and in gaming riverboat-related industries. This increase is based on the assumption of increased patronage due to more liberal rules regarding embarking and disembarking from gaming riverboats. No significant impact on competition is anticipated.

Kenneth E. Pickering
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Justice
Riverboat Gaming Commission

Sale of Alcohol (LAC 42:XIII.704)

Under the authority of The Louisiana Riverboat Economic Development and Gaming Control Act, particularly R.S. 4:501 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the chairman gives notice that the rulemaking procedures have been initiated to amend the Riverboat Gaming Commission's rules by adopting LAC 42:XIII by adopting Section 704.

LAC 42:XIII.704 is being added to reflect the Riverboat Gaming Commission's responsibility and authority to

promulgate rules concerning the conduct of the sale of alcoholic beverages granted to it by R.S. 4:501 et seq., specifically R.S. 4:552 of The Louisiana Riverboat Economic Development and Gaming Control Act.

Title 42
LOUISIANA GAMING
Part XIII. Riverboat Gaming
Subpart 1. Riverboat Gaming Commission
Chapter 7. Operating Standards
§704. Sale of Alcoholic Beverages on Riverboats or Terminal and Docking Facilities

With the exceptions of R.S. 26:493 and R.S. 26:493.1, and with the exception of the sale of alcoholic beverages on the riverboat or terminal and docking facilities during the hours of gaming activity, all other provisions of R.S. Title 26 and all the rules and regulations promulgated thereunder are by reference adopted by the commission and delegated to The Louisiana State Alcoholic Beverages Board and all other respective local authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by Department of Justice, Riverboat Gaming Commission, LR 20:

All interested persons are invited to submit written comments on the proposed rules. Such comments should be submitted no later than April 11, 1994, at 5 p.m., to Cletia Smith, Louisiana Riverboat Gaming Commission, Box 44307, Baton Rouge, LA, 70804-4307.

Kenneth E. Pickering
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sale of Alcoholic Beverages on Riverboats or Terminal and Docking Facilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No additional costs to state or local government units are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is an anticipated increase in revenue collections for both the state general fund and local funds because a liberalization of the periods of time when alcoholic beverages may be sold on a gaming riverboat (e.g., Sundays) will cause an increase in tax revenues on the sale of said beverages.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is an anticipated increase in economic benefits to the riverboat gaming industry and gaming riverboat-related industries due to the increase in the sale of alcoholic beverages. No significant increase in workload adjustments of paperwork is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is an anticipated increase in the employment on gaming riverboats and riverboat-related industries. This increase is based on the assumption that increased sales of alcohol will result in greater receipts and/or income resulting in an increase in employment. No significant impact on competition is anticipated.

Kenneth E. Pickering
Chairman

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Louisiana Health Care Authority

Minimum Fee in Outpatient Clincis and Emergency Room (LAC 48:XI.1309)

Consistent with the Legislative Auditor's interpretation of Act 893 of 1991, the Louisiana Health Care Authority proposes to adopt LAC 48:XI.1309 to require a minimum payment for physician services or treatment in the outpatient clinics and emergency rooms of the 10 acute care hospitals, consistent with Louisiana statutes and federal Medicaid and Medicare law and regulations.

Title 48
PUBLIC HEALTH-GENERAL
Part XI. Hospitals
Subpart 3. General Hospitals
Chapter 13. Admissions, Eligibility, Fees
§1309. Minimum Fee in Outpatient Clinics and Emergency Room

A. Statement of Purpose and Scope. The Louisiana Health Care Authority Medical Centers will require payment of $3.50 per visit for physician services in outpatient clinics and the emergency room for all patients, subject to the exceptions specified in §1309.B and D of this Chapter. This fee is considered an "administrative charge."

B. Exceptions

1. Persons with Medicare or Medicaid coverage shall not be subject to the $3.50 minimum payment.

2. Persons who are classified as "free care" under the liability limitation policy shall not be subject to the minimum charge.

3. Persons with other third party payors, such as commercial insurance, shall not be subject to the minimum payment.

C. Waiver of Minimum Payment. When a minimum payment is waived under the provisions of this rule, information provided to patients regarding that waiver should be provided privately or in such other manner as necessary to protect the privacy of the patient.

D. Potential Conflict with State Statutes or Federal Law or Regulations. Nothing in this policy is intended to be in conflict with federal or state law, or with federal rules and regulations pertaining to the provisions of services to the indigent, or to those Medicare or Medicaid eligible.

E. The effective date of this policy shall be July 1, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:6.

HISTORICAL NOTE: Promulgated by the Louisiana Health Care Authority, LR 20:

Interested persons may submit written comments on this proposed rule until 4:30 p.m., April 29, 1994 to: Patrick O'Connor, Ph.D., Director, Managed Care Section, Louisiana Health Care Authority, 8550 United Plaza Blvd., Fourth Floor, Baton Rouge, LA 70809.

William A. Cherry, M.D.
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Fee

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule has no estimated implementation costs or savings to state or local governmental units, insofar as the existing billing system used by the Louisiana Health Care Authority will only change the amount owed by patients who are already being billed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana Health Care Authority estimates that adding a $3.50 administrative charge to sliding-fee-scale outpatients and emergency room patients will generate $148,826 in new revenues. Additional charges will total $1,488,296 (425,217 visits times $3.50), but it is assumed only 10 percent of this amount will be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

State medical center outpatients and emergency room patients who are presently subject to the sliding-fee-scale will owe $3.50 more, rather than paying this amount at the point of service. Any patient whose income falls below 200 percent of the federal poverty level (approximately $29,000 for a family of four) will not be billed an additional $3.50.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no impact on competition and employment in the public and private sectors.

William A. Cherry, M.D.
Chief Executive Officer

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Natural Resources
Office of Coastal Restoration and Management
Coastal Management Division

Coastal Management (LAC 43:I.Chapter 7)

In accordance with R.S. 49:214.41 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Coastal Restoration and Management, proposes to amend LAC 43:I.Chapter 7. Chapter 7 is entitled Coastal Management Division and presently includes the coastal use guidelines (Sections 701 - 721) and regulations for the Louisiana Coastal Resources Program (Sections 723 - 731). The proposed amendment would 1) reorganize Chapter 7 into six Subchapters, of which Subchapter A would amend definitions from the existing Sections 721 and 731 and insert new definitions to support the proposed Section 724; 2) insert a Section 724 (Rules and Procedures for Mitigation); and 3) modify the existing Section 723 to link the proposed Section 724 to the existing rule.

Part of the Coastal Resources Program involves operation of a regulatory program which permits certain uses of the Louisiana Coastal Zone. Some permitted uses of the coastal zone cause the loss of wetland ecological values. Section 724 of the amended rule would require mitigation for the loss of wetland ecological values due to those permitted activities. Mitigation includes the avoiding, minimizing, and restoring adverse impacts when possible, and then compensating for (i.e., substituting or replacing) any unavoidable impacts. While the existing rule already allows DNR to seek mitigation, the existing rule does not provide an efficient mechanism for addressing compensatory mitigation for small impacts, does not prescribe a specific procedure accomplishing mitigation, and therefore sometimes results in unequal results among permit applicants. The amended rule addresses those problems by establishing specific procedures for avoiding and minimizing adverse impacts identified in the permit review process, restoring impacted sites when appropriate, quantifying anticipated unavoidable wetland ecological value losses, requiring appropriate and sufficient compensatory mitigation, establishing mitigation banks, and evaluating and processing requests for variances from the compensatory mitigation requirement. The amended rule would establish the following fees: 1) compensatory mitigation processing fee, 2) mitigation bank processing fee, 3) mitigation bank periodic review fee, and 4) compensatory mitigation variance request fee. Collected fees would be used to fund a currently unfilled position, and to fund two currently filled positions assigned to compensatory mitigation, and to cover other costs associated with the amended rule.

Copies of the amended rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 or from the Department of Natural Resources, Office of Coastal Restoration and Management, 625 North Fourth Street, 10th Floor, Baton Rouge, LA 70802, phone (504) 342-1375.

Interested parties may submit written inquiries and comments to Rocky Hinds, Department of Natural Resources, Coastal Management Division, Box 44487, Baton Rouge, LA 70804-4487. Inquiries and comments will be accepted through the close of business (4:30 p.m.) on May 2, 1994.

A public hearing on the proposed amended rule will be held on April 26, 1994, at 7:00 p.m., in the Department of Natural Resources' Mineral Board Hearing Room, 625 North Fourth Street, 10th Floor, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said meeting.

John F. Ales
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Coastal Management Mitigation (LAC 43:I.Chapter 7)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule would cost the Department of Natural Resources an additional $55,760 for FY 94-95 and $52,505 for FY 95-96 (i.e., one additional position and associated support). It is also estimated that $503,578 per year could be received and expended by DNR to implement wetland creation, restoration, protection or enhancement projects.

The Department of Transportation and Development, if it seeks to perform work in the coastal zone which has not been permitted yet, would be subject to the cost of implementing compensatory mitigation and any associated fees. Presently, there is no mechanism for estimating those potential costs.

When seeking coastal use permits, local governmental units could be subject to compensatory mitigation processing fees estimated at $10,100 and the cost of performing compensatory mitigation estimated at $85,898 ($95,998 total), except that the proposed rule provides a procedure for seeking variances to the compensatory mitigation requirements. Without the proposed rule, local governmental units would be faced with some, but an indeterminable amount, of those costs, due to the existing rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule includes a fee schedule which would generate approximately $157,650 annually for the Department of Natural Resources to cover the cost of one additional position and two existing positions. It is also estimated that $503,578 per year could be received and expended by DNR to implement wetland creation, restoration, protection or enhancement projects. DNR could receive additional revenue from any group seeking to establish a mitigation bank as a result of fees charged for the evaluation and establishment of the bank and for the periodic review of such banks.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is estimated that oil and gas related companies would be subject to compensatory mitigation processing fees at $134,600 annually, and the cost of performing compensatory mitigation at $858,158 ($992,758 total), except that the proposed rule provides a procedure for seeking variances to the compensatory mitigation requirements. Without the proposed rule, oil and gas related companies would be faced with some, but an interminable amount, of those costs, due to the existing rule.

It is estimated that other groups (included all except local government and oil and gas) would be subject to compensatory mitigation processing fees estimated at $12,950 annually, and the cost of performing compensatory mitigation estimated at $63,150 ($76,100 total), except that the proposed rule provides a procedure for seeking variances to the compensatory mitigation requirements. Without the proposed rule, all persons and non-governmental groups would be faced with some, but an indeterminable amount, of those costs, due to the existing rule.

Any group seeking to establish a mitigation bank pursuant to the proposed rule would be subject to a fee for processing and establishing the bank and to fees for periodic review of such banks.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effects on competition and employment are anticipated. Consultants may see a reduction in opportunities to provide services to entities seeking coastal use permits. The extent of this reduction is unknown.

John F. Ales
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Statewide Order 29-Q-2 Fee Schedule
(LAC 43:XIX.201-207)

Under the authority of Chapter 1 of Title 30 of the Louisiana Revised Statutes of 1950 and particularly Sections 21 and 204 of said Title 30, and the Administrative Procedure Act, R.S. 49:950, et seq., the commissioner of conservation gives notice that rulemaking procedures have been initiated to amend existing regulations and to establish new rules, regulations, fees, and schedules to govern the applications, permitting, monitoring, and maintaining of operations and activities within the regulatory jurisdiction of the Office of Conservation. Existing application and regulatory fees are contained in Statewide Order No. 29-Q-1, LAC 43:XIX.201-207.

The current application and regulatory fees and schedules cited above are inadequate to generate sufficient funds for continuing operations of the Office of Conservation. Therefore, it is necessary under the authority cited above to amend existing regulations and to adopt new fees and schedules to provide adequate operating funds for the Office of Conservation during Fiscal Year 94/95 and beyond. Statewide Order No. 29-Q-2 will supersede Statewide Order No. 29-Q-1.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation - General Operations
Subpart 2. Statewide Order No. 29-Q-2
Chapter 2. Fees

This Order amends and establishes application, permitting, monitoring, and maintenance fees to be assessed operations and activities within the regulatory jurisdiction of the Office of Conservation.

§201. Definitions

Annual "Inspection" Fee—an annual regulatory fee for inspection, monitoring and regulatory maintenance of all production wells, as authorized by LSA-R.S. 30:21.

Application Fee—an amount payable to the Office of Conservation for processing, reviewing, and administering an application requesting authority to conduct an activity or operation subject to the regulatory jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer—an application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order 29-G.

Application for Commercial Class I Injection Well—an application to construct a commercial Class I injection well, as authorized by Statewide Order 29-N-1 or 29-N-2.

Application for Commercial Class I Injection Well (Additional Wells)—an application to construct additional Class I injection wells within the same filing, as authorized by Statewide Order 29-N-1 or 29-N-2.

Application for Commercial Class II Injection Well—an application to construct a commercial Class II or Class V injection well, as authorized by Statewide Order 29-B, or other applicable regulations.

Application for Commercial Class II Injection Well (Additional Wells)—an application to construct additional Class II or Class V injection wells within the same filing, as authorized by Statewide Order 29-B, or other applicable regulations.

Application for Multiple Completion—an application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order 29-C.

Application for Noncommercial Injection Well—an application to construct a Class I, II, III, or V noncommercial injection well, as authorized by Statewide Orders 29-B, 29-M, 29-N-1, or 29-N-2.

Application for Permit to Drill (Minerals)—an application to drill in search of minerals, as authorized by LSA-R.S. 30:204.

Application for Public Hearing—an application for a public hearing as authorized by LSA-R.S. 30:6B.

Application for Substitute Unit Well—an application for a substitute unit well as authorized by Statewide Order 29-K.

Application for Surface Mining Development Operations Permit—an application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order 29-0-1, or successor regulations.

Application for Surface Mining Exploration Permit—an application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order 29-0-1, or successor regulations.

Application for Surface Mining Permit—an application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order 29-0-1, or successor regulations.

Application for Unit Termination—an application for unit termination as authorized by Statewide Order 29-L-1.

Application for Well Classification (NGPA)—an application requesting the classification of a well, as authorized by Section 503 of the Natural Gas Policy Act of 1978.

Application to Amend Permit to Drill (Injection or Other)—an application to alter, amend, or change a permit to drill an injection, or other well after its initial issuance, as authorized by LSA-R.S. 30:21.

Application to Amend Permit to Drill (Minerals)—an application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by LSA-R.S. 30:204 C.

Application to Commingle—an application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order 29-D.

Application to Process Form R-4—an application for authorization to transport oil from a lease as authorized by Statewide Order No. 25.

Class I Injection Well—Class I injection wells within the state used to inject hazardous, industrial, or municipal wastes into the subsurface, which fall within the regulatory purview of Statewide Order No. 29-N- 1 or 29-N-2.

Class II Injection Well—Class II injection wells which inject fluids which are brought to the surface in connection with conventional oil or natural gas production, including annular disposal wells, for enhanced recovery of oil and natural gas, and for storage of hydrocarbons which are liquid at standard temperature and pressure.

Emergency Clearance—emergency authorization to transport oil from lease.

Production Well—any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, Section XIX.G) or for residential consumption, multiply completed wells reverted to single completion, multiply completed wells which are not reverted to single completions but which are off production are have no future production capability from the current perforated interval, stripper crude oil wells and incapable gas wells certified by the Severance Tax Division of the Department of Revenue and Taxation on January 1 of each year, and shut in or temporarily abandoned oil wells in stripper fields as determined by the Office of Conservation effective for the month of January of each year.

Regulatory Fee—an amount payable annually, or otherwise, to the Office of Conservation for a particular operation or activity within the regulatory jurisdiction of the Office of Conservation, for the purpose of permitting, monitoring, and maintaining regulatory control of the particular operation or activity by the Office of Conservation.

Request for Administrative Approval—any application or request for administrative approval relative to any matter subject to the jurisdiction of the Office of Conservation not covered under the above definitions including but not limited to 29-E exceptions, alternate unit wells, reservoir reclassification, down hole combination, consolidation of commingling facilities, authority to commence blowdown, Form UIC-14 and Form UIC-30.

Type A Facility—commercial oilfield waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the

regulatory purview of Statewide Order No. 29-B, Section XV, or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

Type B Facility—commercial oilfield waste disposal facilities within the state that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B, Section XV, or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation in LR 15:551 (July 1989) amended LR 20:

§203. Fee Schedule

A. Application Fees

1. Application for Unit Termination - $250.
2. Application for Substitute Unit Well - $250.
3. Application for Public Hearing - $750.
4. Application for Multiple Completion - $125.
5. Application to Commingle - $250.
6. Application for Automatic Custody Transfer - $250.
7. Application for Noncommercial Injection Well - $250.
8. Application for Commercial Class I Injection Well - $1,250.
9. Application for Commercial Class I Injection Well (Additional Wells) - $625.
10. Application for Commercial Class II Injection Well - $625.
11. Application for Commercial Class II Injection Well (Additional Wells) - $325.
12. Application for Permit to Drill (Minerals) - (<3,000') - $125.
13. Application for Permit to Drill Minerals (3,000' - 10,000') - $625.
14. Application for Permit to Drill (Minerals) (10,000+) - $1,250.
15. Application to Amend Permit to Drill (Minerals) - $125.
16. Application to Amend Permit to Drill (Injection or Other) - $125.
17. Application for Well Classification (NGPA) - $250.
18. Application for Surface Mining Exploration Permit - $65.
19. Application for Surface Mining Development Operations Permit - $100.
20. Application for Surface Mining Permit - $2,200.
21. Application to Process Form R-4 - $35.
22. Application to Reinstate Suspended Form R-4 - $65.
23. Application for Emergency Clearance Form R-4 - $65.
24. Request for Administrative Approval - $250.

B. Regulatory Fees

1. Operators of each permitted Class I Injection Well are required to pay an annual regulatory fee of $8,750 per Class I Injection Well. Such payments are due within 30 days of receipt of invoice from the Office of Conservation.

2. Operators of each permitted Type A Facility are required to pay an annual regulatory fee of $6,250 per Facility. Such payments are due within 30 days of receipt of invoice from the Office of Conservation.

3. Operators of each permitted Type B Facility are required to pay an annual regulatory fee of $3,125 per Facility. Such payments are due within 30 days of receipt of invoice from the Office of Conservation.

4. Operators of all production wells are required to pay an annual regulatory fee ("Inspection Fee") of $65 per well. Such payments are due within 30-days of receipt of invoice from the Office of Conservation.

5. Operators of each Class II Injection Well are required to pay an annual regulatory fee of $65 per well. Such payments are due within 30 days of receipt of invoice from the Office of Conservation.

6. Operators of Record, including but not limited to operators of oil and/or gas wells, gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of $125. Such payment is due within 30 days of receipt of invoice from the Office of Conservation.

7. Operators of Class II Injection Wells (Status 63 and 64) are required to pay a fee of $0.0025 per barrel of injected saltwater or other authorized fluids. Injected water from enhanced oil and natural gas projects, injected water associated with hydrocarbon storage, water injected into permitted commercial disposal wells, and water injected from stripper crude oil wells and incapable gas wells certified by the Severance Tax Division of the Department of Revenue and Taxation on January 1 of each year are exempt from this fee. Payments shall be made payable to and received by the Office of Conservation within 30 days following the end of each quarter (April 30, July 31, October 31, and January 31), and shall be attached to and submitted with Form UIC-10-Q.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation in LR 15:551 (July 1989) amended LR 20:

§205. Failure to Comply

A. Operators of operations or activities defined in §201 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required regulatory fee payment may subject the operator to civil penalties under LSA-R.S. 30:18 and LSA-R.S. 30:6 G, and may be cause to immediately suspend operations of the particular operations or activities and schedule a public hearing to show cause why the permit for the particular operations or activities should not be revoked.

B. Failure to timely submit the required application fee payment will result in application denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation in LR 15:551 (July 1989) amended LR 20:

§207. Severability and Effective Date

A. The fees set forth in §203 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order 29-Q-2, and if any such individual fee is held to be unacceptable, pursuant to LSA-R.S. 49:968(H)(2), or held invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order supersedes Statewide Order No. 29-Q-1, and shall be effective July 1, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation in LR 15:551 (July 1989) amended LR 20:

A public hearing will be held under Docket No. 94-110 on April 26, 1994 at 9 a.m. in the Conservation Hearing Room, First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed regulations.

The public comment period will remain open to receive written comments until 4:30 p.m., May 2, 1994. Comments should be submitted to H. W. Thompson, Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804.

H. W. Thompson
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Fee Schedule

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant additional implementation costs or savings to state or local government agencies, as the proposed Statewide Order is amending existing application and regulatory fees currently being collected by the Office of Conservation. The fees currently being collected by the Office of Conservation will be replaced by those fees as proposed in the subject Statewide Order No. 29-Q-2.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Currently application and regulatory fees generate approximately $3.78 million annually. The proposed application and regulatory fees as proposed in Statewide Order No. 29-Q-2 will generate approximately $5.59 million annually, a net increase of $1.81 million. Statewide Order No. 29-Q-2 will not take effect until July 1, 1994, therefore, there will be no effect on revenue collection in the current 1993-94 fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed application and regulatory fees as proposed in the subject Statewide Order No. 29-Q-2 will require operators of oil, gas, injection wells, commercial oilfield waste disposal facilities and surface coal/lignite mines to pay a total of approximately $5.59 million annually. Application fees will generate approximately $2.53 million of the total and regulatory fees will generate approximately $3.06 million of the total amount. This fee assessment represents an increase of annual costs (operating costs) to the regulated industries of approximately $1.81 million. The existing fees currently produce approximately $2.02 million in application fees and $1.76 million in regulatory fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of the proposed fees should have little effect on the majority of the regulated industries. Due to the large number of operators, the varying case-specific economic situations of individual operators, and the general exclusion of stripper/incapable wells, it is impossible to assess this issue.

H. W. Thompson
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Revenue and Taxation
Office of the Secretary

Electronic Funds Transfer (LAC 61:I.4910)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue and Taxation proposes to amend LAC 61.I.4910 to revise the effective dates for electronic funds transfer of tax payments.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation
Chapter 49. Tax Collection
§4910. Electronic Funds Transfer

A. Electronic Funds Transfer Effective Dates

1. Taxpayers whose payments in connection with the filing of any return or report, including declaration payments, during the prior 12-month period average $100,000 or more will be required to remit the respective tax or taxes electronically or by other immediately investible funds, as required by R.S. 47:1519, effective as follows:

a. gasoline dealers: tax periods beginning September 1, 1993;

b. severance taxes: tax periods beginning September 1, 1993;

c. corporation income and franchise taxes: tax returns for tax periods ending December 31, 1993;

d. sales and withholding taxes: tax periods beginning March 1, 1994;

2. Effective August 1, 1994, the electronic payments or payment by other immediately investible funds will be required of all filers of the above described taxes whose payments during the previous 12-month period averaged $50,000 or more.

3. Effective with the January 1995 taxable period, electronic payments or payment by other immediately investible funds will be required for filers of all other business

taxes not mentioned above, whose payments during the previous 12-month period averaged $50,000 or more.

4. Any taxpayer whose tax payments for a particular tax averages less than $50,000 per payment may voluntarily remit amounts due by electronic funds transfer with the approval of the secretary. Once a taxpayer requests to electronically transfer tax payments he must continue to do so for a period of at least 12 months.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:1032 (August 1993), repromulgated LR 19:1340 (October 1993), amended LR 20:

Interested persons may submit their written comments on the proposed amendments to: Linda Denney, Director, Severance Tax Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821. Comments will be accepted through the close of business on Thursday, April 28, 1994 at 4:30 p.m. A public hearing will be held on Friday, April 29, 1994 at 10:30 a.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: Electronic Funds Transfer

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no significant implementation costs associated with lowering the electronic funds transfer payment threshold to $50,000 earlier than specified in the original regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the state will earn interest for four additional days on the tax payments electronically transferred. An annual rate of 3.5 percent (the current earnings rate for short-term government securities) was used to calculate the interest earnings. Lowering the threshold for required electronic payments will result in additional interest earnings of $100,000 for FY 6-95. There will be no effect on subsequent years, when the $50,000 payment threshold would have been in effect.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This amendment will require taxpayers, whose average payments are more than $50,000 but less than $100,000, to electronically transfer tax payments one year sooner than originally specified. These taxpayers will incur a small transaction charge ($1.50-$2) if they elect to use the ACH credit method. The department will incur the transaction cost if they elect to use the ACH debit method.

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

Severance Tax on Oil and/or Condensate;
Deduction Allowed for Transportation Costs
(LAC 61:I.2903)

Under the authority of R.S. 47:633 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:I:2903.A.8 pertaining to the taxable value of oil and/or condensate.

Severance tax is collected on oil and/or condensate based on a percentage of its value at the time and place of severance. R.S. 47:633(7) states that "Such value shall be the higher of (1) the gross receipts received from the first purchaser, less charges for trucking, barging and pipeline fees, or (2) the posted field price." This amendment clarifies the definition of value, gross receipts, and posted field price; and defines what constitutes an arm's length transaction.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation
Chapter 29. Natural Resources: Severance Tax
§2903. Severance Taxes on Oil: Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. Definitions

* * *

8. *Value*—with respect to oil and/or condensate, the value shall be the higher of (1) the gross receipts received from the first purchaser, in an arm's length transaction, or (2) the posted field price.

a. *Gross Receipts*—the total amount of payment received from the first purchaser, in an arm's length transaction, less actual charges for trucking, barging or pipeline fees charged the severer and withheld by the first purchaser. Gross receipts shall include bonus or premium payments when made by the purchaser to the owner, all advanced payments, and any other thing of value such as exchanges, barter, or reimbursement of costs. Advanced payments are not taxable until the oil and/or condensate for which such payments are made are actually severed and delivered to the purchaser. At no time shall the gross receipts (gross proceeds less transportation charges), when used as taxable value, be less than the posted field price.

b. *Posted Field Price*—a written statement of crude oil prices circulated among buyers and sellers of crude petroleum oil for a particular field and is generally known by buyers and sellers within the field as being the posted price. The posted field price is the actual price of crude petroleum advertised for a field. The area price is a written statement of crude oil prices circulated among buyers or sellers of crude petroleum listing prices for different areas of the state, usually listed as

north Louisiana and south Louisiana, and generally known among buyers and sellers within the area as the posted price. This area price is the beginning price for crude petroleum of an area before adjustments for kind and quality (gravity adjustments) of the crude petroleum. When no actual posted field price is advertised or issued by a purchaser, the area price less adjustments for kind or quality (gravity adjustments) becomes the posted field price. At no time shall the posted field price, when used as taxable value, be less than gross receipts.

c. *Arm's Length Transaction*—a contract or agreement that has been arrived at in the open market place between independent and nonaffiliated parties with opposing economic interests with regard to the contract or agreement. In an arm's length transaction, the value shall be the gross receipts of all things of value received, directly and indirectly, by the producer.

d. *Non-Arm's Length Transaction*—the value of oil and/or condensate at the time and place of severance, from transactions that involve subsidiaries, related parties, or affiliates shall be derived by taking the following into consideration:

i. if the producer is also a purchaser, look to the gross proceeds from contemporaneous arm's length transactions for the purchase of significant quantities of like quality oil in the same field or, if necessary, the same area;

ii. the highest price paid by independent and nonaffiliated parties for a part or a majority of like quality oil produced in the same field or, if necessary, the same area; and

iii. other relevant information, including information submitted by the producer concerning the unique circumstances of producer's operations, product or market.

e. The secretary, in the absence of supporting documentation or arm's length transaction, may adjust a producer's reported value to conform with the above mentioned standards.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, August 1, 1974, amended LR 3:499 (December 1977), LR 20:

All interested persons may submit data, views, or arguments, in writing to Carl Reilly, Assistant Director, Severance Tax Division, Department of Revenue and Taxation, Box 201, Baton Rouge, LA 70821. All comments must be submitted by 4:30 p.m. on Thursday, April 28, 1994. A public hearing will be held on Friday, April 29, 1994 at 1:30 p.m. in the Department of Revenue and Taxation Secretary's Conference Room, 330 North Ardenwood Drive, Baton Rouge, LA.

Ralph Slaughter
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Severance Tax on Oil and/or Condensate; Deduction Allowed for Transportation Costs (LAC 61:I.2903)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs for printing new tax returns and computer programming changes are estimated to be less than $10,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that state revenue collections would increase by $4 million annually due to the elimination of the $ .25 per barrel transportation deduction, which has been allowed by regulation and is in addition to any actual transportation charges allowed by the statute. From this additional amount of severance tax collections, some parish governments may receive some additional revenue distribution if they do not already receive the maximum allowed from severed oil within their jurisdiction.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is estimated that the buyers and sellers of crude petroleum products will pay $4 million additional tax annually as a result of the elimination of the $ .25 per barrel transportation deduction, which has been allowed by regulation and is in addition to any actual transportation charges allowed by the statute. They may also incur a small cost for implementation of the reporting changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since the increased severance tax resulting from this rule change is relatively small on a per barrel basis, it is expected that there will be no or only minimal effects on competition and employment.

Ralph Slaughter
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Transportation and Development
Office of General Counsel

Ferry Toll Exemption (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 "Ferry Toll Exemptions for Employees of Parish Governing Authorities" in accordance with Act 345 of 1993.

TITLE 70
TRANSPORTATION
Part I. Office of the General Counsel
Chapter 5. Tolls
§509. Ferry Toll Exemptions for Employees of Parish Governing Authorities

A. The free right of passage over any public ferry which moves between two landings located in the same parish and which is leased out or controlled by the Department of

Transportation and Development for which toll is exacted shall be provided to all employees of parish governing authorities in official parish governing authority vehicles in their passage to and from work on an official project of the parish governing authority.

B. Department of Transportation and Development ferry locations affected:

1. Cameron - two locations;
2. Edgard/Reserve;
3. Iberville - two locations;
4. Duty Enterprise;
5. Canal Street/Algiers.

C. The above mentioned free passage shall be granted to those persons operating a vehicle marked with the official logo of the parish governing authority, or if operating an unmarked parish-owned vehicle, presentation of picture identification shall be required.

AUTHORITY NOTE: Promulgated in accordance with Act 345 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 20:

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: Merlin A. Pistorius, Chief, Maintenance Division, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, phone (504) 379-1502.

Jude W. P. Patin,
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Ferry Toll Exemptions for Employees of Parish Governing Authorities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs anticipated in connection with promulgation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will decrease only FY 1993-94 revenues since all tolls are scheduled to end statutorily on July 1, 1994. There will be a decrease in revenue collections for the state. This decrease will be approximately $5,493 annually. This amount will be saved by the particular parishes which have ferries traveling between landings in one parish. There should be no fiscal impact on future fiscal years unless tolls are reinstated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No private persons or nongovernmental groups are affected by this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment anticipated.

Jude W. P. Patin
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Hardwater Lake Netting Prohibition (LAC 76:VII.171)

The Wildlife and Fisheries Commission hereby advertises its intent to adopt the following rule prohibiting the use of gill nets, trammel nets and fish seines in Hardwater Lake located in Grant Parish.

Title 76
Wildlife and Fisheries
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sport and Commercial Fishing
§171. Netting Prohibition - Hardwater Lake

The Louisiana Wildlife and Fisheries Commission hereby prohibits the use of gill nets, trammel nets and fish seines in Hardwater Lake located in Grant Parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:

Interested persons may submit written comments on this proposed rule to Bennie J. Fontenot, Administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, May 4, 1994.

John F. "Jeff" Schneider
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Netting Prohibition - Hardwater Lake

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out by existing enforcement personnel through routine patrol activities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule will have no revenue impact on the user groups of the lake.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Increased catch success of recreational anglers in Hardwater Lake resulting from the rule change should increase sales and employment in sales of fishing tackle, bait food and lodging in the area.

Fredrick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Red Snapper Minimum Size Limit (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend LAC 76:VII.335 raising the minimum size limit for red snapper, which is part of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this rule is included in R.S. 56:6(25)(a) and 56:326.3.

Title 76
Wildlife and Fisheries
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§335. Daily Take, Possession and Size Limits Set by Commission, Reef Fish

* * *

G.	Species	Minimum Size Limits
1.	Red Snapper	14 inches total length

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1992) and LR 20:

Interested persons may submit comments on the proposed rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

John F. "Jeff" Schneider
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Daily Take, Possession and Size Limits Set by Commission, Reef Fish

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no state or local governmental implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to any state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be costs of an undetermined magnitude to persons presently harvesting red snapper both recreationally and commercially, who would be restricted in their efficiency due to the proposed limits. Losses to commercial fishermen would accrue from the loss of fish between the existing 13 inch and proposed 14 inch minimum sizes. Fish less than 16 inches are slightly more valuable on a per-pound basis than larger fish. Economic benefits, also of an undetermined magnitude may also accrue to fishermen in both sectors as a result of a small increase in the size of red snapper stocks protected by the proposed limits. Direct costs to the fishermen for permits and fees would not be affected by the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment. Loss of some of the niche market for the smaller fish could affect competition between fish harvested locally, an those imported from foreign countries.

Fredrick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Resident Hunting Seasons (1994-95)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

A complete copy of the regulations may be viewed at the Office of the State Register, Capitol Annex, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802 and at Wildlife and Fisheries Headquarters, 2000 Quail Drive, Baton Rouge, LA 70810.

Resident Game Birds and Animals

Shooting hours: one-half hour before sunrise to one-half hour after sunset. Also consult regulation pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

SPECIES	SEASON DATES	DAILY BAG LIMIT	POSSESSION LIMIT
Quail	Nov. 24 -Feb. 28	10	20
Rabbit	Oct. 1 - Feb. 28	8	16
Squirrel	Oct. 1 - Jan. 29	8	16
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6/season (By all Methods)
Turkey	See Schedule	1	3/season

DEER HUNTING SCHEDULE				
AREA	ARCHERY	STILL HUNT	MUZZLELOADER (All Either Sex)	WITH OR WITHOUT DOGS
1	Oct. 1 - Jan. 22	Nov. 19-Dec. 4 Jan. 6-Jan. 16	Dec. 5-Dec. 9	Dec. 10 - Jan. 5
2	Oct. 1 - Jan. 22	Oct. 29-Dec. 4	Dec. 5-Dec. 9	Dec. 10 - Jan. 5
3	Oct. 1 - Jan. 22	Oct. 29-Dec. 4 Dec. 10-Jan. 5	Dec. 5-Dec. 9	
4	Oct. 1 - Jan. 22	Nov. 19-Dec. 4 Dec. 10-Jan. 8	Dec. 5-Dec. 9	
5	Oct. 1 - Jan. 22	Nov. 19- Nov.27	Dec. 5-Dec. 9 (Bucks Only)	
6	Oct. 1 - Jan. 22	Nov. 19-Dec. 2	Dec. 3-Dec. 9	Dec. 10 - Jan. 22
7	Oct. 1 - Jan. 22	Oct. 29-Nov. 2 Nov. 19- Nov.27	Dec. 3-Dec. 9	Dec. 10 - Jan. 22
8	Oct. 1 - Jan. 22	Nov. 19-Dec. 2 Jan. 6-Jan. 22	Dec. 3-Dec. 9	Dec. 10 - Jan. 5

TURKEY HUNTING SCHEDULE	
AREA	SEASON DATES
A	March 25 - April 23
B	March 18 - April 23
D	April 8 - April 23
E	March 25 - April 2

CITATION: None - Changes annually

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 20:

Public hearings will be held at regularly scheduled Wildlife and Fisheries Commission meetings from April through July. Additionally, interested persons may submit written comments relative to the proposed rule until May 20, 1994 to Hugh A. Bateman, Administrator, Wildlife Division, Box 98000, Baton Rouge, LA 70898.

John F. "Jeff" Schneider
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Resident Hunting Season 1994-95

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules, aside from staff time, is the production of the regulation pamphlet. Cost of printing the 1993-94 pamphlet was $17,300 and no major increase in expenditures is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Projected hunting license fee collections for FY 94-95 will be approximately $4.5 - $5.0 million. Additionally hunting and related activities generates approximately $13 million in state sales tax and $3.5 million in state income tax. Failure to adopt rule changes would result in no hunting season being established and a potential loss of these revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Hunting in Louisiana generates in excess of $629,166,000 annually through the sale of outdoor related equipment, associated items and other economic benefits. Figures are based on the national surveys by Southwich and Associates for the IAFWA.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides 9,370 jobs. Not establishing hunting seasons might have a negative and direct impact on these positions.

Fredrick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

POTPOURRI

POTPOURRI

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

Floristry Examinations

The next retail floristry examinations will be given May 2-6, 1994 at 9:30 a.m. at the 4-H Mini Farm Building, LSU Campus, Baton Rouge, LA. The deadline for sending application and fee is April 4, 1994, at 4:30 p.m. No applications will be accepted after April 4, 1994.

Further information pertaining to the 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 Animal Health Services

Pet Turtle Order

WHEREAS, the regulation, inspection and control of pet turtles is necessary to promote agriculture and aquaculture in the state of Louisiana;

WHEREAS, R.S. 3:2358.8 allows for the commissioner to provide methods of prevention of diseases in pet turtles;

WHEREAS, prevention of diseases, especially contagious and infectious diseases in pet turtles, is the stated purpose of the law;

NOW THEREFORE, I, BOB ODOM, commissioner of the Department of Agriculture and Forestry, by virtue of the laws of the state of Louisiana, declare that:

The accepted method of sanitization shall include any method or methods based on generally accepted scientific principles and reasonably calculated to achieve the stated legislative purpose of preventing the introduction into and dissemination within this state of contagious and infectious diseases of pet turtles.

Any licensed pet-turtle farmer may, in advance of use, submit a proposed method of sanitization to the department for determination as to whether or not the proposed method is based on generally accepted scientific principles and reasonably calculated to achieve the stated legislative purpose of preventing the introduction into and dissemination within this state of contagious and infectious diseases of pet turtles.

Bob Odom
Commissioner

POTPOURRI

Department of Environmental Quality
Office of the Secretary

Environmental Equity

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2011(D)(5), the Department of Environmental Quality will conduct a public fact-finding hearing. The purpose of this hearing is to explore issues concerning environmental justice/equity in the administration of department programs.

The public hearing will be held on Saturday, April 16, 1994 at 9 a.m., in the University of New Orleans Lakefront Performing Arts Auditorium. Interested persons are invited to attend and submit oral comments. Individuals with a disability requiring special accommodations in order to participate should contact Frederick J. Barrow at the address given below or at (504) 765-0741.

Interested persons are also invited to submit written comments. Such comments should be submitted to Frank Alexis, Office of the Secretary, Box 82263, Baton Rouge, LA, 70884-2263 or to 7290 Bluebonnet Boulevard, Sixth Floor, Baton Rouge, LA, 70810 or to fax number (504) 765-0746. Comments will be accepted by this office until April 30, 1994.

William A. Kucharski
Secretary

POTPOURRI

Office of the Governor
Office of the Oil Spill Coordinator

Meeting Schedule

In accordance with R.S. 30:2458(A), notice is hereby given that the Oil Spill Interagency Council will meet on April 7, 1994 at 2 p.m., 1885 Wooddale Boulevard, 11th Floor Conference Room, Baton Rouge, LA. All interested persons are cordially invited to attend.

For further information, call (504) 922-3230.

Roland J. Guidry
Oil Spill Coordinator

POTPOURRI

Department of Health and Hospitals
Board of Embalmers and Funeral Directors

Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, May 7, 1994 at Delgado Community College, 615 City Park Avenue, New Orleans.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

POTPOURRI

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

Public Hearing—Preadmission Certification for Inpatient Hospital Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is providing notice that a second public hearing will be held on the notice of intent entitled Preadmission Certification for Inpatient

Hospital Services which was published in the November 20, 1993 issue of the *Louisiana Register*, Volume 19, No. 11. This public hearing will be held at 9:30 a.m. on April 20, 1994, in the auditorium of the Department of Transportation and Development at 1201 Capitol Access Road, Baton Rouge, LA.

The purpose of this public hearing is to present the bureau's proposed changes to the above-cited notice of intent and to receive comments. These proposed changes reflect the bureau's responses to the concerns expressed relative to the November 20, 1993 notice of intent. The public hearing will include presentation of the preadmission certification requirements for long-term care hospitals and distinct part psychiatric units as well as length of stay review requirements for all Medicaid eligibles, the use of such criteria as InterQual and HCIA, Inc. criteria for determining lengths of stay, and functional operations for implementing adherence to these requirements. The initiation of retroactive eligibility reviews for patients admitted and other considerations such as the use of specific Unisys nursing review staff for psychiatric services, long-term care hospital services and general medical surgical services will be discussed.

Rose V. Forrest
Secretary

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Claims

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 30 claims in the amount of $106,543.29 were received in the month of February 1994. No claims in the amount of $ .00 were paid and one claim was denied.

Loran coordinates of reported underwater obstructions are:

26636	46979	Cameron
18167	46853	Terrebonne
26648	46973	Cameron
27019	46948	Vermilion
29166	47021	St. Bernard
28388	46834	Lafourche
27630	46904	St. Mary
27760	46877	Terrebonne
27104	46943	Vermilion
26961	46956	Cameron
27749	46876	Terrebonne
26638	46977	Cameron
27231	46942	Vermilion

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 Social Services
Office of Rehabilitation Services

Public Hearing

The Department of Social Services, Rehabilitation Services will conduct public hearings beginning at 10 a.m., April 25, 1994, at Rehabilitation Services offices at the following locations:

1525 Fairfield Avenue	Shreveport
900 Murray Street	Alexandria
2026 St. Charles Avenue	New Orleans

relative to the following policy change from the proposed policy manual, page 20, number 2:

2. Other hearing impairments where there is documented evidence of severe functional limitations due to medical/psychological factors such that the individual experiences severe impairment in terms of an employment outcome and requires more than one substantial vocational rehabilitation service over an extended period of time. Severe functional limitations include, but are not limited to, the following areas of functional capacity:

sensorineural hearing loss of 40 dB or greater in both ears without hearing aids as hearing aids only provide partial benefit from amplification in terms of improved word discrimination and communication skills. These functional limitations continue to exist with sensorineural hearing loss in spite of hearing aids

conductive hearing loss of 40 dB or greater in both ears with hearing aids because individuals with conductive losses can almost always benefit from hearing aids to the point where the hearing loss and problems in word discrimination are substantially overcome

the individual's speech is not clear or easily understood due to hearing loss

deficits in school achievement as compared to intellectual ability when such deficits are related to communication problems.

All interested persons will be afforded an opportunity to express issues, views or concerns at the hearings. Written commentary will be accepted by Rehabilitation Services through May 19, 1994, and should be addressed to May Nelson, Director, Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834.

Gloria Bryant-Banks
Secretary

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