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This public document was published at a total cost of \$1,929.00. 1,025 copies of this document were published in this monthly printing at a cost of \$3,929.00. The total cost of all printings of this document including reprints is \$1,929.00. This document was published by Moran Printing, Inc., 5425 Florida Blvd., Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 94-42

One Church - One Addict Program

WHEREAS: the national program ONE CHURCH - ONE ADDICT was established for the purpose of mobilizing faith communities across this country to aid recovering substance abusers; and

WHEREAS: many of America's institutions have joined the fight against drug abuse, the one institution that has remained largely uninvolved is the faith community, and ONE CHURCH - ONE ADDICT will bring the eclectic resources of churches to positively impact this nation-wide scourge; and

WHEREAS: the local churches are located throughout the many communities, towns, cities, and wherever Louisiana citizens gather, and can provide the following important services, support, acceptance, companionship, and role modeling; make referrals to treatment centers; advise and counsel families of pitfalls of enabling the addicted; and train addicts to practice relapse prevention; and

WHEREAS: the health, safety, educational, social and economic welfare of the citizens of the state of Louisiana can and will benefit greatly from the unified efforts of the religious leadership in sponsoring and promoting ONE CHURCH - ONE ADDICT ;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct that a statewide ONE CHURCH - ONE ADDICT PROGRAM be established in accordance with but not limited to the following:

SECTION 1: The statewide ONE CHURCH - ONE ADDICT PROGRAM is hereby created and established to be administered through the Office of Urban Affairs and Development, within the Executive Department, Office of the Governor.

SECTION 2: The statewide ONE CHURCH - ONE ADDICT PROGRAM shall be governed by a board of directors appointed by the governor; consisting of church representatives, religious and civic leaders representing all faith communities and denominations.

SECTION 3: The board of directors for the statewide ONE CHURCH - ONE ADDICT PROGRAM shall be chaired by a member so designated by the governor, and shall design a structure which will allow, promote and facilitate the work of the program to be accomplished throughout the state.

SECTION 4: All departments, commissions, boards, agencies and officers of the state or of any political subdivision thereof, are authorized and directed to cooperate with the statewide ONE CHURCH - ONE ADDICT PROGRAM, in implementing the provisions of this executive order.

SECTION 5: 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 15th day of November, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9412#016

EXECUTIVE ORDER EWE 94-43

Commission on Environmental Education

WHEREAS: it is in the public interest that a comprehensive and balanced environmental education program be developed and adopted in order that the citizens of Louisiana can effectively solve existing environmental problems, prevent new ones, and maintain a suitable environment for future generations; and

WHEREAS: there is an immediate need to create a statewide environmental education program for the purpose of identifying the needs and setting priorities for environmental education within the state; and

WHEREAS: the provisions of the Louisiana Environmental Education Act as established in La. R.S. 30:2501 et seq. terminated on August 14, 1994, and could not be re-created or extended during the 1994 session because it was constitutionally limited to fiscal matters; and

WHEREAS: the efforts of the commission created by that act are to be commended; and

WHEREAS: a successor commission existing within the executive branch to continue to study and develop a future plan for environmental education is necessary and desirable;

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, do hereby order and direct as follows:

SECTION 1: There shall be established within the Office of the Governor a commission which shall be designated the "Louisiana Commission on Environmental Education."

SECTION 2: The Louisiana Commission on Environmental Education shall be responsible for developing a balanced statewide environmental program for the purpose of identifying the needs and setting priorities for environmental education within the state.

SECTION 3: The commission shall consist of the following members:

1. the state superintendent of education, or his designee;
2. the secretary of the department of environmental quality, or a designee;
3. the secretary of the department of natural resources, or a designee;

4. the secretary of the department of health and hospitals, or a designee;

5. the commissioner of the department of agriculture and forestry, or a designee;

6. the chancellor of the Louisiana State University Agricultural Center;

7. the chancellor of Southern University Agricultural and Mechanical College;

8. the following members appointed by the governor:

a. one member of the Board of Regents;

b. two members representing environmental advocacy organizations;

c. two members representing the industrial community;

d. one member representing the small business community;

e. one member representing local governments;

f. one member of the Board of Elementary and Secondary Education;

g. one member who is a professional environmental scientist;

h. one member of the Louisiana Environmental Educators Association;

i. one member of the Louisiana Science Teachers' Association.

SECTION 4: The commission shall conduct a study of the following:

1. a future plan for environmental education;

2. the policies and procedures necessary to provide for environmental education;

3. the provision of a forum for the discussion and study of problems that affect the environment and environmental education;

4. the obtainment of information from various sources to coordinate the environmental education programs of state agencies;

5. the administration of state environmental education grants program and possible procedures for the awarding of such grants.

SECTION 5: The commission shall file a preliminary report setting forth the results of their study and plan to the Office of the Governor, the Senate Committee on Environmental Quality, and the House of Representatives Committee on Natural Resources prior to the 1995 Legislative Session.

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 Commission on Environmental Education 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 21st day of November, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9412#015

EMERGENCY RULES

DECLARATION OF EMERGENCY

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

Pesticide Use in School Buildings and
Grounds Area (LAC 7:XXIII.13123 and 13144)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:3203(A), the commissioner of Agriculture and Forestry is amending and adopting the following rules for the implementation of regulations governing the use of pesticides in, on, or around school buildings and grounds.

This emergency adoption is necessary in order that the department may immediately put into place more stringent regulations governing the qualifications required for school personnel making pesticide applications, and to implement an Integrated Pest Management Plan for pesticide applications in, on, or around school buildings and grounds by the governing authorities of the schools.

The department has further deemed these regulations necessary to help ensure the safety and well-being of school children in the state.

The effective date of these rules is November 15, 1994, and shall remain in effect for 120 days or until these rules take effect through the normal promulgation process, whichever takes the least time.

Title 7

AGRICULTURE

Part XXIII. Advisory Commission on Pesticides
Chapter 131. Advisory Commission on Pesticides
Subchapter F. Certification
§13123. Certification of Commercial Applicators

* * *

B. Categories are established on the basis of the location

where the application of pesticides will be made, and each applicant for certification is required to successfully complete an examination in the category in which the applicant desires certification.

1. Certification in a category authorizes the commercial applicator to make application of or supervise the application of restricted use pesticides in the areas listed for each category.

2. The commissioner hereby establishes the following categories and subcategories of certification for commercial applicators:

(Note: The classifications in this Subsection reflect national categories established by EPA.)

* * *

Category 7. Industrial, Institutional, Structural and Health Related Pest Control. This category includes commercial applicators and nonfee commercial applicators using or supervising the use of pesticides with restricted uses in, on or around food handling establishments, human dwellings, institutions, such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products.

This category has been subdivided into four subcategories:

* * *

b. Subcategory 7b is for applicators who apply or supervise the application of restricted use pesticides on a nonfee basis in, on or around institutions, motels, apartment houses, hotels, hospitals and like places as the owner or in the employ of the owner.

* * *

d. Subcategory 7d is for applicators who apply or supervise the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or Restricted Use Pesticides, in, on, or around structures and grounds of schools that provide education for classes kindergarten through 12. Pesticide applications for wood destroying insects shall be applied by licensed structural pest control operators.

i. All persons certified under 7d shall attend a continuing education program, annually.

ii. Each 7d certified applicator shall annually train all persons applying pesticides under his/her supervision according to the handler training requirements of 40 CFR 170 (Worker Protection Standards).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:

Subchapter I. Application of Pesticides

§13144. Special Restrictions on Pesticide Applications in Schools

A. Any person who applies or supervises the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or

Restricted Use Pesticides, in, on, or around school structures and grounds shall be a certified commercial applicator or under the supervision of a certified commercial applicator.

B. School systems with 10 or more schools shall employ a minimum of two certified commercial applicators. School systems with less than 10 schools shall employ a minimum of one certified commercial applicator.

C. The governing authority (including but not limited to superintendents, headmasters, school boards, board of directors, chief executive officer, or principals) shall prepare and submit in writing, for each school under its authority, to the director of Pesticide and Environmental Programs (PEP), an annual integrated pest management (IPM) plan for pest control for grass and weed control and rodent and general pest control (roaches, wasps, and ants) in, on, or around school structures and grounds. The IPM plan shall include all pest control methods employed, including pesticide and nonpesticide methods. The first IPM plan shall be submitted prior to any application of pesticides beginning March 1, 1995 and shall be submitted on an annual year of August 1 through July 31. The plan shall be available for review, upon request, by the commissioner and the general public, during normal school hours, at each school, in the business office. The annual IPM plan shall include, but not be limited to the following:

1. school name and mailing address, physical address, telephone number and contact person;

2. name and license or place of business number of company(s) and certification numbers of applicators, if contracted;

3. name and certification number of certified commercial applicator(s) of school system;

4. brand name and EPA registration number of all pesticides to be used;

5. for each pesticide to be used list the following:

a. pest to be controlled;

b. type of application to be used;

c. location of application;

d. restricted use pesticide or general use pesticide;

6. proposed location and date for noncertified applicator training;

7. other methods of pest control.

C. Any deviation from the integrated pest control management plan submitted shall be submitted in writing to LDAF, Director of PEP 24 hours prior to any application.

D. Records of pesticide applications for grass and weed control and general pest control, shall be maintained in accordance with LAC 7:13157.

E. No pesticides shall be applied for general pest control inside school buildings when students are present or expected to be present for normal academic instruction or extracurricular activity for at least eight hours after application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 21:

Bob Odum
Commissioner

9412#002

DECLARATION OF EMERGENCY

Economic Development and Gaming Corporation

Conditional Licenses for Distributors, Manufacturers, and Providers of Gaming Devices or Supplies (LAC 42:IX.2730)

The Board of Directors for the Economic Development and Gaming Corporation (LEDGC) adopted LAC 42:IX.2730 of its rules and regulations by emergency. This emergency rule is a part of the LEDGC's initial rules as specified under R.S. 4:620(D), which states:

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

The board further declares that an emergency exists for adopting this rule in that the casino operator must have significant lead time in order to purchase certain gaming products. This emergency rule, effective November 28, 1994, for 120 days, will allow the Economic Development and Gaming Corporation to issue conditional licenses under those "exceptional circumstances."

Title 42

LOUISIANA GAMING

Part IX. Casino Gambling

Chapter 27. Vendor and Junket Representative Licensing and Registration

§2730. Conditional Licenses for Distributors, Manufacturers, Providers of Gaming Devices or Supplies

A. The president may issue a conditional license to a manufacturer, distributor or provider of gaming devices or supplies when, in the president's sole judgment, the issuance of a conditional license furthers the purposes of the Casino Act and provided that the president makes the following findings with respect to the applicant:

1. that the applicant has filed a properly completed application for a permanent license which includes a request for a conditional license; certifies to the corporation that exceptional circumstances exist warranting the issuance of a conditional license and has paid all license fees due to the corporation;

2. that the applicant is licensed for the same purposes as set forth in the application for the conditional license in either Illinois, Nevada or New Jersey (a "prior licensing jurisdiction");

3. that the applicant has continually maintained its licenses in each prior licensing jurisdiction in good standing and has certified in its application that none of its licenses in the prior licensing jurisdiction have ever been suspended or revoked;

4. that the application for a license which includes a request for the issuance of a conditional license describes in reasonable detail the nature of the contract or contracts which the applicant proposes to enter into pursuant to the conditional license.

B. A conditional license issued pursuant to this Section 2730 shall state on its face that the license is subject to the Casino Act and the rules and regulations, and that the contract or contract permitted by the conditional license is subject to the applicant being granted a permanent license by the LEDGC within the duration of the conditional license which shall not be more than 180 days from the date of issuance of the conditional license. The duration of the conditional license may be extended by the president for one additional time period not to exceed 90 days from the expiration of the original 180 day period.

C. A conditional license shall contain such other terms and conditions as the president, in his sole discretion, deems necessary in order to protect the interests of the corporation or to enforce the provisions of the Casino Act or the rules and regulations.

D. A conditional license shall be subject to the following:

1. that the contract or contracts permitted by the conditional license is subject to the applicant being found suitable and a permanent license granted to the applicant within the time limits set forth in Subsection B above;

2. that the applicant shall maintain all licenses issued in each prior licensing jurisdiction in which the applicant was licensed as of the date of application and thereafter, in good standing throughout the time for performance of the contract or contracts conditionally permitted by the conditional license;

3. the contract or contracts may be canceled or terminated without penalty or other liability to the casino operator, the casino manager, any other person contracting with the applicant or to the corporation if the applicant does not comply with or otherwise fails to remain in compliance with the requirements of this Section 2730 or is not granted a permanent license within the time limits set forth in Subsection B above;

4. if the conditional license is ordered terminated by either the corporation or the president, or if a permanent license is not granted to the applicant, then all payment obligations under the contract or contracts shall be null and void and all deposits, installment payments or other sums theretofore paid to the applicant shall be refunded and repaid by the applicant to the casino operator, the casino manager or other contracting person within 30 calendar days of notice of termination of the conditional license and without penalty, liability, deduction, set off or reduction in amount for any reason whatsoever.

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

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 21:

Wilmore W. Whitmore
President

9412#004

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746—Certification Changes

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, the certification changes to Bulletin 746, Louisiana Standards for State Certification of School Personnel. The rule was effective August 1, 1994, and is being readopted in order to continue the present policy for 120 days or until it is finalized as a rule, whichever occurs first, through the administrative procedure process. This emergency rule, effective December 1, 1994, brings this bulletin in conformance with legislation.

The board further granted the Department of Education administrative authority to issue higher certificates to individuals who were on a Type C certificate or who had completed certification requirements prior to August 1, 1994, and who were employed in a nonpublic school for at least three years prior to August 1, 1994.

Emergency adoption of the board action is necessary to ensure that the issuance of teaching certificates will comply with the provisions of Act 1 of the Third Extraordinary Session of the Louisiana Legislature which were effective August 1, 1994. See page 1305 of the November 1994 issue of the *Louisiana Register* for certification changes.

AUTHORITY NOTE: Act 1 of the 1994 Third Extraordinary Session of the Legislature.

Carole Wallin
Executive Director

9412#022

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

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

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, Section 459 (Discipline Procedures) of Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act, effective December 25, 1994.

Section 459 (Discipline Procedures) was previously adopted as an emergency rule and printed in full on pages 973-974 of the September, 1994 issue of the *Louisiana Register*. Readoption is necessary in order to continue the present policy until finalized as a rule.

Emergency adoption was necessary due to the increased violence in the public schools. School systems are suspending and expelling students for dangerous behavior on a routine

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

§459. Discipline Procedures

A. Definitions

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

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

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

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

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

1. For exclusions of one to ten days:

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

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

c. The special education administrator or designee shall be notified immediately, within one school day, of the student's removal from school, the number of days of

exclusion, and the reason for the removal. All exclusions, regardless of the reason, must be reported.

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

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

a. A trained and knowledgeable group of persons must determine whether the student's misconduct or pattern of misconduct is related to the disabling condition. This group of persons must be knowledgeable about the student, the meaning of the evaluation data, and the placement options. The IEP/Placement committee could satisfy this requirement.

Note: For the purpose of this section, if the IEP/Placement Committee is used the procedure used to notify parents (whether oral or written or both) is left to the discretion of the LEA, but the LEA must keep a record of its efforts to contact parents.

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

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

d. If the misconduct is found not related to the disability and the exclusion will occur, a re-evaluation (as defined in Bulletin 1508, *The Pupil Appraisal Handbook*) must be conducted. After the reevaluation is completed the IEP/Placement committee must convene to determine appropriate programming and placement and develop a behavior management plan which addresses the specific behavior(s) which caused the exclusion to occur. Free appropriate public education (FAPE) must be provided and educational services may not cease.

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

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

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

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

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

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

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

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

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

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

Carole Wallin
Executive Director

9412#026

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 readopted 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 383-386 of the April, 1994 issue of the *Louisiana Register*.

This amendment is being readopted as an emergency rule in order to continue the present emergency rule until it is finalized as a rule or for 120 days, whichever occurs first. The effective date of this emergency rule is December 23, 1994.

AUTHORITY NOTE: R.S. 17:6(a)(9)

Carole Wallin
Executive Director

9412#024

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1943—Teacher Assessment

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

Amend Section III: Applicability and Timelines

A. Delete the second paragraph which reads:

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

Amend Section IV: Glossary

External Assessor—amend to read:

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

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

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

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

Readoption as an emergency rule is necessary in order to continue the amendments until finalized as a rule or for 120 days, whichever occurs first. Effective date of emergency rule is December 25, 1994.

Carole Wallin
Executive Director

9412#023

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Internship Program for Nonpublic School Administrators

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

Internship Program for Nonpublic School Administrators

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

college or university program shall be the equivalent to the State Administrative Leadership Academy and Project LEAD.

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

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

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

Readoption as an emergency rule is necessary in order for the program to remain in effect until finalized as a rule or for 120 days, whichever occurs first. Effective date of this emergency rule is December 25, 1994.

Carole Wallin
Executive Director

9412#025

DECLARATION OF EMERGENCY

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

Home Health Agencies' Licensure

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following emergency rule as authorized by R.S. 40:2009.31-40. Regulations governing home health agencies were last revised effective January 1992 and referenced in the *Louisiana Register*, Volume 18, Number 1 page 57. These regulations are contained in the *Louisiana Administrative Code*, Title 48:I, Part I, General Administration, Subpart 3, Licensing and Certification, Chapter 91. Since that time there has been a tremendous expansion of home health agencies as well as the growth in utilization of these services by Louisiana's citizens. Therefore, in order to ensure that the licensure standards for these agencies incorporate all necessary safeguards to protect and promote the health and welfare of persons in need of home health services, an emergency rule was adopted on July 22, 1994. A notice of intent was published in the *Louisiana Register*, Volume 20, Number 9 and a public hearing was held on October 31, 1994 wherein numerous comments were presented. The following emergency rule re-adopts the provisions of the July 22, 1994 emergency rule upon its expiration for the period November 19, 1994 through adoption of the rule. The department is postponing adoption of the rule pursuant to the Administrative Procedure Act, as a legislative oversight committee hearing is scheduled for November 30, 1994. In addition, further public comment is expected through this forum which will be included in the department's considerations for the adoption of the rule for home health agencies which the department anticipates will be promulgated effective on December 20, 1994.

Emergency Rule

Effective November 19, 1994, the Bureau of Health Services Financing hereby adopts regulations to govern the licensure of home health agencies applying for licensure on or after July 22, 1994. In addition the bureau shall retain the regulations of the Minimum Standards for Home Health Agencies currently in effect as revised on January 20, 1992 and referenced in the *Louisiana Register* Volume 18, Number 1 page 57 and found at LAC 48:I, Chapter 91 to govern home health agencies issued licenses prior to July 22, 1994 and the bureau shall retain these regulations to govern such agencies until July 22, 1995. On July 23, 1995, the provisions of this rule shall govern all home health agencies, regardless of date of issuance of license. Home health agencies must deliver home health services in compliance with all federal and state laws and regulations.

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

Rose V. Forrest
Secretary

9412#018

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Service

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

The Bureau of Health Services Financing reimburses inpatient hospital psychiatric services in a variety of hospital settings. The bureau has adopted standards governing the provision of inpatient psychiatric services including "Standards for Payment - Free-Standing Psychiatric Hospitals" on October 20, 1987; "Standards for Payment of Inpatient Psychiatric Services - Distinct Part Psychiatric Units" on March 1, 1994; and "Pre-Admission Certification and Length of Stay Criteria for Inpatient Hospital Services" on July 1, 1994; and "Medical Eligibility Criteria-Inpatient Psychiatric Admission" adopted by emergency rule on November 1, 1994.

The adoption of the November 1, 1994 emergency rule established uniform admission criteria for inpatient psychiatric services regardless of the type of facility or inpatient setting involved in the admission, i.e., a free-standing psychiatric

hospital, a long term hospital or a distinct part psychiatric unit. However, pre-admission certification and length of stay assignment requirements existed for inpatient psychiatric services provided in a long term hospital or distinct part psychiatric unit but not for services provided in a free-standing psychiatric hospital. The bureau has adopted the following emergency rule to ensure medical necessity of all inpatient psychiatric admissions by establishing greater uniformity in the application of the admission criteria by instituting a pre-admission certification and length of stay assignments for free-standing psychiatric hospitals. In addition this emergency rule also revises regulations contained in the "Standards for Payment - Free-Standing Psychiatric Hospitals" by revising the requirements for the Certification of Need for Psychiatric Hospitalization, repealing the vendor payment policy for temporary absences or leave days and replacing the continued stay criteria for the free-standing psychiatric hospitals. The extension and discharge criteria for all psychiatric services provided in any type of facility or inpatient setting incorporated in this emergency rule also replace previous extension criteria. The extension and discharge criteria for hospital-based medical detoxification services contained in this emergency rule also replace the previous continued stay criteria for these services. The extension criteria are formulated according to categories for adults and children and utilizes the *Diagnostic and Statistical Manual of Mental Disorders*. The edition of this manual bearing the most recent publication date and which has been approved for use by the director, Bureau of Health Services Financing, is the manual which will be used by the fiscal intermediary for determining the medical necessity for and duration of an extended stay.

The bureau anticipates that adoption of these requirements will establish greater uniformity for the provision of all inpatient psychiatric services regardless of the facility/setting thereby ensuring more effective program administration and oversight to prevent possible loss of federal funding for these services and/or the imposition of sanctions by the federal government.

It is estimated that implementation of this rule will result in minimal savings of approximately of \$1,654,454. It is anticipated the majority of the programmatic savings will result from the November 1, 1994 emergency rule which established the uniform medical admission criteria for all inpatient psychiatric admissions rather than from this emergency rule which establishes a pre-admission certification process for these admissions to free-standing psychiatric hospitals and adopts other related provisions some of which are revisions to previous regulations.

Emergency Rule

Effective December 2, 1994 the Bureau of Health Services Financing adopts the following regulations.

A free-standing psychiatric hospital must comply with all of the following requirements except number 2 under the General Provisions in order to receive reimbursement under the Medicaid Program for inpatient psychiatric services, including hospital based medical detoxification services for alcoholism and drug abuse.

I. Pre-admission Certification

A pre-admission certification must be obtained from the

fiscal intermediary prior to all admissions on or after December 2, 1994. All patients in the free-standing psychiatric hospital who were admitted prior to December 2, 1994 and are to remain in the psychiatric hospital beyond December 31, 1994 must be registered with the fiscal intermediary and a length of stay assignment obtained. The issuance of the pre-admission certification shall be based upon the patient meeting the admission requirements entitled "Medical Eligibility Criteria - Inpatient Psychiatric Admission" and published in the November 20, 1994 issue of the *Louisiana Register*, Volume 20 No. 11. In addition the certification of need for psychiatric hospitalization must be approved by the fiscal intermediary in order for this pre-admission certification to be issued.

II. Certification of Need for Psychiatric Hospitalization for all Persons under 21 Years of Age

The Certification of Need for Psychiatric Hospitalization requirement for all inpatient admission of persons under 20 years of age contained in the *Standards for Payment - Free-Standing Psychiatric Hospitals* is revised as follows. An independent team or the admitting hospital's interdisciplinary team, dependent upon whether the patient is Medicaid certified at admission must certify that the patient requires inpatient psychiatric services based on the following requirements. Requirements numbered (1), (2), and (3) or number (4) must be met. (1) Ambulatory care resources available in the community have been tried or are inadequate in meeting the treatment needs of the patient at this time; and (2) proper treatment of the patient's psychiatric condition requires services on an in-patient basis under the direction of a psychiatrist or a physician under the supervision of a psychiatrist; and (3) the services can be expected to improve the patient's condition within a reasonable period of time or prevent further regression to the extent that services will no longer be needed; or (4) the patient's medical condition is in immediate jeopardy due to the need for medically-directed acute detoxification and related treatment. The availability or lack of outpatient resources is not a determining factor for Medicaid reimbursement. This certification of need must be completed no sooner than five days prior to the admission of the patient. This certification of need is required for all admissions, including emergency and court-ordered admissions.

A. The independent team and the admitting hospital interdisciplinary team must consist of a physician licensed in Louisiana and another professional including either a registered nurse, board certified social worker, master social worker, psychologist or professional counselor qualified to perform mental health counseling. No member of the independent team may be employed by or have a consultant relationship with the admitting hospital if the patient is a Medicaid recipient.

B. The date of the last signature of the independent team/admitting hospital interdisciplinary team establishes the earliest possible date for Medicaid reimbursement.

C. Nonemergency Admissions. The certification of need for psychiatric hospitalization must be mailed or FAXed to the fiscal intermediary in time for the approval process to be completed prior to the close of business on the same day as

the pre-certification admission approval is requested. Any pre-admission certification granted subject to the receipt and approval of the certification of need will be voided if the certification of need is not received and approved.

D. Emergency Admissions. An emergency admission is an admission of a patient during other than normal business hours which is necessary to prevent his death or the serious impairment of his health based on the determination(s) of the independent team or admitting hospital's interdisciplinary's team. A court-ordered admission, physician's emergency certificate, coroner's emergency certificate does not in itself justify characterizing the admission as an emergency admission.

The certification of need must be FAXed to the fiscal intermediary on the next business day following the emergency admission. If the request for admission is denied, the hospital may request a reconsideration of the decision. The reconsideration process involves a physician to physician consultation between the treating physician or his designee and the physician of the fiscal intermediary within one business day of the denial notification.

III. Admission Procedures

The admission procedures contained in the *Standards for Payment - Free-Standing Psychiatric Hospitals* are no longer applicable and are superseded by this rule which establishes a pre-certification requirement administered by the fiscal intermediary.

If the request for a pre-admission certification is denied by the fiscal intermediary, the hospital may request a reconsideration of the decision. The reconsideration process involves a physician to physician consultation between the treating physician or his designee and the physician of the fiscal intermediary within one business day of the denial notification.

If the reconsideration process results in a denial of the admission the patient may initiate a formal appeal in writing to the Department of Health and Hospitals, Bureau of Appeals, in accordance with existing Department of Health and Hospitals' appeal procedures.

A hospital may request a retrospective review for Medicaid reimbursement when the patient's Medicaid eligibility is unknown at the time of admission.

IV. Length of Stay Assignment Requirements

A initial length of stay assignment established by the fiscal intermediary is required for all inpatient psychiatric admissions. This period is based on the HCIA Length of Stay Southern Region grand totals and the clinical information provided on the patient. The initial length of stay will be assigned at the 50th percentile based on the admitting diagnosis and the initial approved extension will be assigned up to the 75th percentile. Requests for subsequent approved extensions of up to three additional days may be submitted for consideration.

V. Discontinuation of the Vendor Payment for Leave Days

The vendor payment policy for the payment of leave day(s) due to temporary absence(s) of a recipient from a free-standing psychiatric hospital contained in the *Standards for Payment - Free-Standing Psychiatric Hospitals* is repealed.

All inpatient psychiatric admissions to any hospital or distinct part psychiatric unit must comply with all of the

following requirements in order to be reimbursed by the Medicaid Program. The following extension criteria supersede previous extension or continued stay and discharge criteria for all inpatient psychiatric admissions.

I. Extension Criteria for Adults Includes both Severity of Illness and Intensity of Service Needs

The extension of stay criteria for psychiatric admissions are formulated according to categories for adults and utilizes the *Diagnostic and Statistical Manual of Mental Disorders*. The edition of this manual bearing the most recent publication date and which has been approved for use by the director, Bureau of Health Services Financing, is the manual which will be used by the fiscal intermediary for determining the medical necessity for and duration of an extended stay. There is no limit on the number of extensions that can be requested from the fiscal intermediary.

Severity of Illness. The patient must continue to meet one or more of 1, 2 or 3 of the criteria below.

A. Patient presents as a danger to self as evidenced by one or more of the following:

1. documentation that the patient continues to have a current suicide plan, specific suicide intent, recurring suicidal ideation, or suicide attempts;

2. documentation of continuing self-mutilative behavior as a result of a psychiatric disorder.

OR

B. The patient presents as a danger to others due to a DSM-III-R Axis I diagnosis as evidenced by one or more of the following criteria:

1. documentation that patient continues to display dangerously aggressive behavior due to a DSM-III-R Axis I diagnosis;

2. documentation that patient continues to threaten to kill or seriously injure another person with the means to carry out the threat AND the threatening behavior is due to a DSM-III-R Axis I diagnosis;

3. documentation that the patient continues to have a current homicidal plan, specific homicidal intent, or recurrent homicidal ideation AND this is due to a DSM-III-R Axis I diagnosis.

OR

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

1. Documentation of a continuing serious impairment in function as compared to others of the same age in one or more major life roles (school, job, family, interpersonal relations, self-care, etc.) due to a DSM-III-R Axis I diagnosis.

AND 1 must be accompanied by 2 OR 3.

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

a. patient has a history of decompensation without psychotropic medications and continues to refuse these medications; or

b. patient is at risk of health or life due to non-compliance with medical regimens (e.g., insulin-dependent diabetes, etc.) and continues to refuse these regimens.

OR

3. Documentation that patient continues to present with exacerbation of hallucinations, delusions, or illusions of such magnitude that the patient's well being is threatened.

Intensity of Service. The patient must continue to meet all the criteria below.

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

AND

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

AND

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

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

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

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

II. Discharge Criteria for Adults

Medicaid payment will cease when patient no longer meets the extension criteria for Severity of Illness and Intensity of Service.

II. Extension Criteria for Children Includes both Severity of Illness and Intensity of Service Needs

The extension of stay criteria for psychiatric admissions are formulated according to categories for children and utilizes the *Diagnostic and Statistical Manual of Mental Disorders*. The edition of this manual bearing the most recent publication date and which has been approved for use by the director, Bureau of Health Services Financing, is the manual which will be used by the fiscal intermediary for determining the medical necessity for and duration of an extended stay.

Severity of Illness. The child must continue to meet criteria 1, 2, or 3 of the following criteria.

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

1. Continued documented presence of self-mutilative behavior.

OR

2. The child continues to have a clear plan to seriously harm him/herself, overt suicidal intent, and, if discharged,

lethal means to follow the plan. Details of the plan must be documented. AND

Indicators 1 or 2 *must* be accompanied by 3 below.

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

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

1. The child continues to engage in behavior harmful or potentially harmful to others or cause serious damage to property which would pose a serious threat of injury or harm to others. Description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to present.

OR

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

OR

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

Indicators 1, 2, or 3 must be accompanied by 4 below.

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

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

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

a. deficits in control, cognition, or judgment;

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

c. prognostic indicators which predict the effectiveness of acute treatment. AND

Indicator 1 *must* be accompanied by 2 or 3 or 4 below.

2. The acute onset of psychosis or severe thought disorganization or clinical deterioration continues to render the child unmanageable and unable to cooperate in nonhospital treatment.

OR

3. There is a continued need for medication therapy or

complex diagnostic testing where the child's level of functioning precludes cooperation with treatment in an outpatient or nonhospital based regimen, and may require close supervision and/or involve forced administration of medication.

OR

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

Intensity of Service. The child must meet criteria A and B and C.

A. Services in the community do not exist and/or do not meet the treatment needs of the child or the child has been unresponsive to treatment at a less intensive level of care. Services considered and rationale must be documented.

AND

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

AND

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

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

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

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

IV. Discharge Criteria for Children

Medicaid payment will cease when patient no longer meets the extension criteria for Severity of Illness and Intensity of Service.

All inpatient admissions to any hospital or distinct part psychiatric unit for hospital-based medical detoxification services for alcoholism and drug abuse must comply with all of the following extension and discharge criteria in order to be reimbursed by the Medicaid Program. The following extension criteria supersede previous extension or continued stay and discharge criteria for hospital-based medical detoxification services for alcoholism and drug abuse.

I. Extension Criteria for Hospital-Based Medical Detoxification Services for Alcoholism and Drug Abuse

Severity of illness and intensity of services criteria must be met.

Length of stay will vary with the severity of the illness and the response to treatment. Criteria A and B must be met.

A. The patient continues to meet the diagnostic criteria required for admission.

AND

B. To comply with criteria A one of the following must be met.

a. Acute alcohol and/or other drug intoxication and/or potential withdrawal; persistence of acute withdrawal symptomology or detoxification protocol requires continued medical and/or nursing management on a 24-hour basis.

OR

b. Biomedical Conditions and Complications:

1. A continued biomedical problem or intervening medical event which was serious enough to interrupt treatment, but the patient is again progressing in treatment.

OR

2. A biomedical condition that was initially interfering with treatment is improving, yet the patient still requires 24-hour continued medical management for this condition along with the treatment for the addiction.

OR

3. Emotional/behavioral Conditions and Complications:

1) The patient is making progress toward resolution of a concomitant emotional/behavioral problem, but continued medically managed and nursing interventions are needed before transfer can be made to a less intensive level of care.

OR

2) The patient is assessed as having an AXIS I psychiatric condition or disorder according to the current revision of the *American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders*, or its equivalent, which in combination with alcohol and/or other drug use, continues to present a major health risk and is actively being treated (e.g., medication stabilization).

Intensity of Services. One or more of the following criteria must be met.

A. Intensive treatment with medications for delirium tremens.

B. IV medications or total parenteral nutrition (T.P.N.)

C. Documented detoxification regime of decreasing drug dosage.

D. Neurological checks and vital signs every two hours and "visual checks" every 15 minutes.

E. Environmental control such that the patient is prevented from harming self or others.

II. Discharge Criteria

The patient is considered appropriate for discharge if criteria A or B is met.

A. The patient is assessed post-admission as not having met the diagnostic criteria for Psychoactive Substance Use Disorder as defined by the current revision of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* or the current revision of the *International Classification of Diseases*.

OR

B. The patient must meet one of the following:

1. acute alcohol and/or other drug intoxication and/or potential withdrawal. The patient is assessed as not being intoxicated or in alcohol or other drug withdrawal or the symptoms have diminished sufficiently to be managed in a less intensive level of care, and the patient does not meet any continued stay criteria that indicate the need for further treatment.

OR

2. biomedical conditions or complications:

a. the patient's biomedical problems, if any, have diminished or stabilized to the extent that daily medical and nursing management for the condition is no longer necessary, and the patient does not meet any of the continued stay criteria that indicate the need for further treatment.

OR

b. a biomedical condition has arisen or an identified biomedical problem which is being addressed is not responding to treatment and needs treatment in another setting.

OR

3. emotional/behavior conditions and complications:

a. the patient's emotional/behavioral problems have diminished in acuity to the extent that the daily medical and nursing management is no longer necessary, and the patient does not meet any of the continued stay criteria that indicate the need for further treatment.

OR

b. an emotional/behavioral condition has arisen or an identified emotional/behavioral problem which is being addressed is not responding to treatment and needs treatment in another setting.

OR

4. treatment resistance:

a. the patient consistently refuses continued treatment despite motivating interventions, and the patient does not meet any of the continued stay criteria that indicate the need for further treatment.

GENERAL PROVISIONS

1. Medicaid reimbursement for inpatient psychiatric services provided in a free-standing psychiatric hospital will continue to be made in accordance with the Standards for Payment - Free-standing Psychiatric Hospitals.

2. Medicaid reimbursement for inpatient psychiatric services provided in a distinct part psychiatric unit will continue to be made in accordance with the Standards for Payment - Distinct Part Psychiatric Units and in accordance with the rule entitled "Pre-admission Certification and Length of Stay Criteria for Inpatient Hospital Services adopted on July 1, 1994.

3. All inpatient psychiatric admission regardless of the type of facility or inpatient setting must continue to meet the uniform medical eligibility criteria for all inpatient psychiatric admissions published in the November 20, 1994 issue of the *Louisiana Register*.

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

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

Rose V. Forrest
Secretary

9412#009

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing adopted a rule on the Mental Health Rehabilitation Program to incorporate the guidelines and interpretations of the Health Care Financing Administration on April 20, 1993. This rule was published in the *Louisiana Register*, Volume 19, No. 4. The following emergency rule establishes service limits for certain mental health rehabilitation services and revises the definition of treatment integration to ensure the inclusion of appropriate therapeutic principles and skills for this service component. This emergency rule is adopted to ensure the quality of these services to the target population. In addition this emergency rule is adopted to avoid a budget deficit in this area of the Medicaid Program. The Mental Health Rehabilitation Program under Medicaid was implemented in September 1992 and expenditures for state fiscal year 1993 were \$2,000,000. The total expenditures for the subsequent state fiscal year exceeded \$16,000,000 and it is anticipated that the program will continue growing at an escalated rate unless measures are undertaken to control costs. Adoption of this emergency rule is anticipated to reduce expenditures for state fiscal year 1995 by approximately \$9,000,000. The following emergency rule continues in force provisions which were initially adopted on August 15, 1994 until adoption of the final rule on December 20, 1994.

Emergency Rule

Effective December 13, 1994 the Bureau of Health Services Financing adopts the following revisions in the Mental Health Rehabilitation Program. Daily and monthly service limits are established for individual counseling and therapy; group counseling and therapy; family counseling and therapy; treatment integration; and psychosocial skills training. The annual limitations for each area of treatment are by calendar year and are as follows:

- 1) Medical Assessment - 2 per year;
- 2) Psychological Evaluation - 2 per year;
- 3) Psychosocial Evaluation - 2 per year;
- 4) Other Evaluation - 10 per year;
- 5) Care Plan Development - 2 per year;
- 6) Care Plan Update - 5 per year;
- 7) Collateral Contact - 52 per year;
- 8) Counseling Therapy - (thirty minute units) - 208 per year (includes Individual Family and Group Counseling);

- 9) Treatment Integration - (30 minute units) - 1040 per year;
- 10) Psychosocial Skills Training (1 hour units) - 780 per year;
- 11) Medication Administration - 52 per year;
- 12) Medication Monitoring - 52 units per year;
- 13) Crisis Intervention (30 minute units) - 48 per year; and
- 14) Crisis Support (1 hour units) - 432 per year.

Specific limitations for daily and monthly limitations for each service are referenced in the Medical Services Manual for Mental Health Rehabilitation Services distributed by the fiscal intermediary. These limitations are based upon service utilization review and consultation with the professional staff of the Office of Mental Health regarding the appropriate service needs of the target population. In addition the definition for the service treatment integration has been revised as follows. Treatment integration is a secondary service to therapy services and psychosocial skills training. Services include integrating therapeutic principles and skills into the recipient's natural environment and daily routine; implementation of a person's behavior management plan; specialized 1:1 assistance within a group setting; and/or physical management of a person who is engaged in violent or other disruptive behavior. Treatment integration may be provided in conjunction with other mental health rehabilitation services except crisis services.

Rose V. Forrest
Secretary

9412#050

DECLARATION OF EMERGENCY

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

License, Permit, Compliance, Inspections and
Investigations (LAC 42:XIII.Chapters 17-45)

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 shall become effective December 8, 1994 and hereby repeals and replaces Chapters 17 through 23 published as a rule in the September, 1993 *Louisiana Register*, page 1176 and the prior emergency rule consisting of Chapters 25 through 45 made effective October 20, 1994 and published in the November, 1994 *Louisiana Register*, page 1255. This emergency rule shall remain in effect for 120 days or until final rule promulgation takes effect, whichever is shortest.

There are currently 15 riverboats licensed, seven of which are conducting gaming at the present time in the state. The emergency adoption of these rules is necessary to protect the public welfare of the state and to insure adequate regulation of the riverboat gaming industry. If these rules are not adopted on an emergency basis there will be an interruption in the

operating of the riverboats which are currently licensed and operating. These riverboats generate a source of revenue which is necessary for the operations of the state which benefit the general citizenry of Louisiana. Since the inception of riverboat gaming in this state through July 31, 1994 a total of \$226,954,968.52 in net gaming proceeds has been generated. The state receives 15 percent of this figure as taxes and fees. The loss of this revenue would have a severe adverse impact on the financial well being of the state including layoffs and reduction of government services.

Several additions and changes have been made throughout Chapters 17 through 45 in order that the division may better regulate the riverboat gaming industry. These additions and changes consist of new definitions, ownership and transfers of licenses or permits, maritime requirements, tax clearances, cash transaction reporting, notice of concerns and discrepancies, subpoenas and subpoenas duces tecum, withdrawal of temporary gaming employee permit, procedure for hearings, required record retention of stock ownership, accounting regulations, progressive slot machines, division parking and rules of play (Chapter 31). Several other changes have been made in addition to the above mentioned changes.

As a result of the above findings the Riverboat Gaming Enforcement 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

9412#046

DECLARATION OF EMERGENCY

Department of Social Services
Office of Community Services

Homeless Trust Fund Advisory Council
(LAC 48:I.Chapter 18)

The Department of Social Services has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following emergency rule establishing a procedure to disburse funds from the Louisiana Homeless Trust Fund. The secretary of the Department of Social Services finds that imminent peril to the public health and welfare exists which requires the adoption of the following emergency rule to ensure that organizations that aid the homeless can request emergency grants from the Homeless Trust Fund during the upcoming winter months.

The effective date of this emergency rule is January 1, 1995 and this rule shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

Title 48 PUBLIC HEALTH

Part I. General Administration

Chapter 18. Homeless Trust Fund

§1801. Definitions

In this Chapter:

Council—the Homeless Trust Fund Advisory Council.

Fund—the "Louisiana Homeless Trust Fund" established by R.S. 46:591-46:595.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, LR 21:

§1803. Application Requests

A. To receive an application, an organization that aids the homeless must submit a written request to the council containing the following information:

1. name of the organization;
2. mailing address of the organization;
3. phone number of the organization;
4. contact person within the organization; and
5. proof of the organization's nonprofit and tax exempt status or of nonprofit application pending.

B. An organization that submits an application request will be added to the council's mailing list and the council shall mail the organization information about application requirements and deadlines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:

§1805. Application Requirements and Deadlines

A. The application for funds must contain:

1. name and mailing address of the organization;
2. names and addresses of the organization's board of directors;
3. certification of the organization's nonprofit and tax exempt status or of nonprofit application pending;
4. brief history of the organization and its programs;
5. description of the proposed use of the requested funds;
6. description of the unmet needs of the homeless in the organization's community, including the source of the information;
7. itemized budget and budget justification for the Trust Fund proposal;
8. summary of organization's annual budget and sources of income;
9. documentation of the availability of matching funds for the proposal.

B. The council will issue solicitations for grant applications after the end of the state fiscal year when the balance in the Fund is determined. The solicitation for grant applications will outline application deadlines and describe the eligible projects that the council will fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:

§1807. Review of Applications

A. The council will review complete applications in the

order the applications are received.

B. The council shall evaluate each application according to the following factors:

1. the extent to which the proposal meets the needs of the homeless in the organization's service community, as identified by the most recent report of the Louisiana Interagency Council on the Homeless;

2. the extent to which the organization requires Homeless Trust Fund monies as an equivalent match for other homeless assistance funding;

3. the demonstrated success of the program in meeting the needs of the homeless, if the proposal concerns an existing program;

4. the extent to which the proposal provides for direct services or housing needs, rather than administrative services; and

5. other factors as identified in the council's annual solicitation for grant applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:

§1809. Notification and Appeals

A. The council shall notify applicants of award decisions no later than 30 days after the date of the council's decision.

B. An organization shall notify the council in writing and by mail of whether the organization accepts the award no later than 30 days after the date the organization received the council's notification.

C. The council shall publish annually in the *Louisiana Register* a list of all projects funded during the previous state fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:

§1811. Emergency Grants

At any time, the council may authorize an emergency grant of up to \$2,000 to an organization that aids the homeless, as long as funding is available in accordance with §1813 of this rule. A request for an emergency grant must state the immediate nature of the request and comply with §1805.A of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:

§1813. Residual Funds in the Homeless Trust Fund

The council will retain not less than \$5,000 in the fund. The availability of funds for disbursement will be determined by the council, but will not deplete the fund below this amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:

Gloria Bryant-Banks
Secretary

9412#033

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

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

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Food Stamp Program effective December 29, 1994. It is necessary to extend this declaration because the emergency rule of September 1, 1994 is effective for a maximum of 120 days and will expire before the final rule takes effect.

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

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter A. Household Concept

§1901. Household Composition

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

B. Separate household status may not be granted to the following individuals or groups of individuals, even if they purchase and prepare meals separately:

1. spouses who live together;

2. natural, adopted or step-children, age 21 or under, who live with their parents, unless the child lives with his/her own child(ren) or is married and lives with his/her spouse;

3. children under 18 who live with and are under the parental control of a household member (other than their parent), unless the child lives with his/her own child(ren) or is married and lives with his/her spouse.

C. The definition of a household provides that elderly individuals (and their spouses) who cannot prepare their own meals because they suffer from disabilities considered permanent under the Social Security Act or some other physical or mental non-disease-related disabilities may be a separate household even if living and eating with others. This is limited to those cases where the gross income of the individuals with whom the elderly or disabled person resides does not exceed 165 percent of the poverty level.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:62 (February 1983), LR 9:130 (March 1983),

LR 13:643 (November 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20: (December 1994).

Subchapter H. Resource Eligibility Standards

§1947. Resources

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20: (December 1994).

§1949. Exclusions from Resources

A. The following are excluded as a countable resource:

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:429 (August 1987), amended LR 13:656 (November 1987), LR 17:953 (October 1991), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20: (December 1994).

Subchapter I. Income and Deductions

§1955. Earned Income Deduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20: (December 1994).

§1963. Adjustment of Shelter Deduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20: (December 1994).

§1964. Standard Shelter Estimate

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), amended, LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20: (December 1994).

§1965. Standard Utility Allowance (SUA)

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended LR 20:860 (August 1994), LR 20:990 (September 1994), LR 20: (December 1994).

§1975. Earned Income Tax Credits (EITC)

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:74 (February 1989), amended LR 15:393 (May 1989), amended by the Department of Social Services, Office of Family Support, repealed LR 20:990 (September 1994), LR 20: (December 1994).

§1980. Income Exclusions

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20: (December 1994).

§1981. Utility Allowance for Indirect Energy Assistance

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:486 (August 1986), amended LR 12:768 (November 1986), repealed by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20: (December 1994).

§1983. Income Deductions and Resource Limits

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

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

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

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

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

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

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

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

19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20: (December 1994).

§1989. Prorated Initial Allotment

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:321 (April 1990), repealed by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20: (December 1994).

§1991. Initial Month's Benefits

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20: (December 1994).

§1997. Drug and Alcohol Treatment Centers

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:366 (June 1986), amended by the Department of Social Services, Office of

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

* * *

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

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

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

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:898 (August 1994), LR 20:990 (September 1994), LR 20: (December 1994).

Gloria Bryant-Banks
Secretary

9412#035

DECLARATION OF EMERGENCY

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

Voter Registration (LAC 67:III.201)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in its General Administrative Procedures effective January 1, 1995. This rule shall remain in effect for a period of 120 days.

Pursuant to the National Voter Registration Act of 1993 and Act 10 of the 1994 Third Extraordinary Session of the

Louisiana Legislature, beginning January 1, 1995 the department must provide to applicants of the Food Stamp and AFDC Programs the opportunity to register to vote.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 1. General Administrative Procedures

Chapter 2. Voter Registration Services

§201. Voter Registration by Mail

A. The Office of Family Support as administrator of the Food Stamp and the Aid to Families with Dependent Children Programs is a designated voter registration agency.

B. In accordance with the guidelines of federal and state voter registration acts, parish offices shall provide to applicants and participants of these programs the opportunity to register to vote and shall further provide assistance to registrants as requested.

C. Parish offices shall accept and mail, or otherwise submit, state voter registration forms to their appropriate registrar of voters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:116 and P.L. 103-31.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

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

Plan Document—Durable Medical Equipment

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

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

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

Effective December 8, 1994, the plan document for the

State Employees Group Benefits Program is amended in the following particulars:

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

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

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

I. Definitions

* * *

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

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

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

I. Comprehensive Medical Benefits

* * *

F. Eligible Expenses

* * *

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

James R. Plaisance
Executive Director

9412#036

DECLARATION OF EMERGENCY

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

Retiree 100 Rate Adjustment

In accordance with the applicable provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby finds that imminent peril to the public health and welfare exists which requires the adoption of the following emergency rule relative to the rate for Retiree 100 coverage in order to avoid disruption or curtailment of services to members of the State Employees Group Benefits Program who are enrolled for this optional coverage.

The purpose, intent, and effect of this rate adjustment is to reduce the amount paid by retirees for this optional coverage.

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

Effective January 1, 1995, the rate for the Retiree 100 coverage option with the State Employees Group Benefits Program (available only to retirees with Medicare) will be \$39 per person per month. There is no employer contribution for Retiree 100. The full premium is payable by the plan member/covered person.

James R. Plaisance
Executive Director

9412#005

DECLARATION OF EMERGENCY

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

Des Allemands Catfish Recision

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

The declaration of emergency promulgated by the Wildlife and Fisheries Commission on October 6, 1994, and published in the *Louisiana Register* on October 20, 1994 at page 1091-1092, Vol. 20, No. 10 is hereby repealed, rescinded and annulled. The effect of this repeal is to repeal the permitted taking of channel catfish under 11 inches and to reestablish the statutorily set size limit of 11 inches for channel catfish.

At its November 2, 1994 Legislative Oversight meeting, the Joint House and Senate Natural Resources Committee found

RULES

RULE

Department of Economic Development Auctioneers Licensing Board

Amendment of Licensing of Auction Business
(LAC 46:III.2501); Repeal and Repromulgation of
Fines for Advertising Violations (LAC 46:III.2105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:3101 et seq., the Department of Economic Development, Louisiana Auctioneers Licensing Board, has amended LAC 46:III.2103, Licensing of Auction Business and reclassified this rule text as Section 2501 in a new Chapter 25 entitled "Auction Business." In addition, the rule text of LAC 46:III.2105, Fines for Advertising Violation, has been reclassified, in its entirety, in a new Section 1503 of Chapter 15, Violations and Penalties.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Chapter 15. Violations and Penalties

§1503. Fines for Advertising Violations

Violations of Chapter 17 requiring that the licensee place his name and license number in all advertising will result in a money fine to be levied against him. The amount of the fine will be \$50 for the first offense and \$100 for the second offense. A third or subsequent offense may result in a fine or other disciplinary action within the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 20: (December 1994).

Chapter 21. Rule Making Process

§2103. Licensing of Auction Business

Repealed. [See proposed amended rule in §2501]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 14: (November 1988), amended LR 15:257 (April 1989), repealed LR 20: (December 1994).

§2105. Fines for Advertising Violations

Repealed. [See identical rule in §1503]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 14:788 (November 1988), repealed LR 20: (December 1994).

Chapter 25. Auctioneer Business

§2501. Licensing of Auction Business

A. Preamble. Louisiana Auctioneers Licensing Board herein promulgates rules for the licensing and regulation of auction businesses in the state of Louisiana, pursuant to the

certain statutory deficiencies in the October 6 declaration of emergency and went on record officially asking the commission to immediately rescind it. This declaration of emergency is necessary to accomplish that action and remove any statutory deficiencies that may have occurred with the promulgation of the October 6 declaration of emergency.

John F. "Jeff" Schneider
Chairman

9412#013

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Zone 1 Shrimp Season Extension

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby extend the 1994 Fall Inshore Shrimp Season in all the waters of Zone 1. The commission does also hereby set the closure of Zone 1 to be 12:01 a.m. February 1, 1995.

Zone 1 is that portion of Louisiana's inshore waters from the Mississippi State Line westward to the eastern shore of South Pass of the Mississippi River.

The commission also hereby grants authority to the secretary of the Department of Wildlife and Fisheries to change the closing date in Zone 1 or set any special seasons if biological and technical data indicate the need to do so or if enforcement problems develop.

John F. "Jeff" Schneider
Chairman

9412#014

authority granted to it in Louisiana Revised Statute 37:3101(A).

B. Application of Rules

1. For purposes of these rules and regulations, the term "auction business" shall mean the same and may be used interchangeable with the term "auction house" and "auction company" as articulated in Louisiana Revised Statute 37:3103(A)(11).

2. Definitions

Auction Business—as used in 37:3103(A)(11) shall be further defined as any place of business, including but not limited to an auction barn, sale barn, antique gallery, sale pavilion, and contiguous surrounding, where two or more auctions are held within any 12-month period and where representations are regularly made that goods are sold at auction. Each day when goods or real estate are being offered for sale at auctions shall constitute one auction. A sale barn or livestock auction business that is used exclusively for the auctioning of livestock is not an auction business as defined herein.

Board—the Louisiana Auctioneers Licensing Board.

Licensee—any person licensed under these rules, and in the case of an auction business, includes the person required to obtain a license for such auction house or auction company.

C. Scope of Regulation. Every applicant seeking to operate an auction house shall file with the board a completed application (on a form provided by the board) for a license for each auction business to be operated by that person. Although an auction business may operate in more than one location, at all times, it may only operate under the name licensed with the Louisiana Auctioneers Licensing Board.

D. Licensing Fee. Each application for licensing shall be accompanied by a license fee in the amount of \$300. Any applicant whose application is denied shall be refunded the entire application/license fee within 30 days of such denial. Renewal of each auction business license shall be on an annual basis, no later than February 1 of each calendar year. An auction business license renewal fee shall be \$300.

E. Application Information. Each applicant shall submit the following information on the designated application form:

1. names of owners and length of time of ownership of the business;
2. all business addresses of the applicant;
3. all auctioneers licensed by this state and employed by the business on a regular basis. ("Regular" shall mean more than any single auction in the previous calendar year);
4. the nature of the business and product sought to be sold;
5. two references who are currently licensed Louisiana Auctioneers in good standing with the Louisiana Auctioneers Licensing Board.

F. Board of Right of Investigation

1. Upon receipt of a completed application for an initial or renewal license, the board shall examine the application and may verify the information contained therein.
2. A license to operate as an auction business may be denied, revoked or suspended for the same reasons as those pertaining to auctioneers, articulated at Louisiana Revised Statute 37:3121. All provisions of this statute and rules

relating to the non-issuance, suspension, revocation, or restriction of license granted to individual auctioneers will apply to the regulation of an auction business. All provisions of this statute and rules relating to the reinstatement of licenses shall also apply.

G. The qualifications of an applicant applying for an auction business license shall be the same as those articulated at Louisiana Revised Statute 37:3113(a)1 through 37:3113(b)4, pertaining to the licensing of auctioneers.

H. An auction business licensee shall be able to operate the licensed auction business in any parish of the State of Louisiana. Should the licensee desire to operate the business at more than one location or change the location, the licensee shall give the Louisiana Auctioneers Licensing Board written notice of the change at least five days prior to the change of address or establishment of new location, as well as provide a physical and mailing address of the new or additional location of the business. Failure by licensee to give notice to the Louisiana Auctioneers Licensing Board after such change of location (or establishment of an additional location) shall be grounds for revocation of the auction business license by the board.

I. A licensee's auction business license shall automatically be suspended if no licensed auctioneer is engaged in conducting the auctions for the licensee. Such license may be reinstated by the board for the unexpired term upon proof that a duly licensed auctioneer has been affiliated with the auction business.

J. The provision of Louisiana Revised Statute 37:3115 relative to renewal of license, certificate and penalties for failure to renew the license of auctioneers, shall also apply to an auction business license.

K. No auction business license shall be issued or renewed unless the applicant presents a bond in the amount of \$10,000 in a form approved by the board.

L. A resident Louisiana licensed auctioneer may operate an auction business without a fee, and without posting of an additional surety bond if a surety bond guaranteeing his performance as an auctioneer has previously been posted.

M. An auction business must display in its' office or offices its' current license to do business as an auction business at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 20: (December 1994).

Bobby L. Green
Chairman

9412#006

RULE

Board of Elementary and Secondary Education

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

The State Board of Elementary and Secondary Education, at its meeting of July 28, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq., and adopted revised Bulletin 1882, Administrative Leadership Academy Guidelines, 1994. Bulletin 1882 is also referenced in the Administrative Code as noted below.

The complete document may be viewed at the Office of the State Register, Fifth Floor, Capitol Annex, 1051 North Third Street, Baton Rouge, LA; in the Office of Academic Programs, State Department of Education; or in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, LA.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

§920. Administrative Leadership Academy Guidelines

A. Bulletin 1882

1. Bulletin 1882, Administrative Leadership Academy Guidelines, 1994, is adopted.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:850 (October 1990), amended LR 20: (December 1994).

Carole Wallin
Executive Director

9412#037

RULE

Board of Elementary and Secondary Education

Environmental Science Certification Requirements

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted certification requirements for Environmental Science for inclusion in Bulletin 746, Standards for state Certification of School Personnel. The certification requirements for Environmental Science will become effective August 1, 1999.

Science Areas

The minimal requirements for certification in each science area are listed below. Laboratories normally associated with each science* shall be taken. In addition, credit or proficiency in college algebra and trigonometry is the minimal math requirement.

1. General Science

Thirty-two semester hours, to include eight semester hours in biology, eight semester hours in chemistry, eight semester hours in earth science, and eight semester hours in physics.

Certification may be earned in both general science and any of the four subject areas if an additional eight semester hours of credit are earned in each expanded area. For biology, course work must include botany, zoology, and microbiology; for chemistry, course work must include general, organic and quantitative analysis or physical chemistry; for earth science, course work must include physical and historical geology; for physics, at least one semester of calculus is required in addition to the total of 16 hours of physics. Dual certification may be earned in general science and environmental science if a total of 40 semester hours is earned which includes four additional semester hours in biology and four additional semester hours in chemistry. The course work must include general biology and ecology, general and organic chemistry, and physical geology or its equivalent.

2. Biology

Twenty semester hours, to include courses in botany, zoology, and microbiology. At least one year of college level chemistry is required, and it is desirable that the course of study include some organic chemistry.

Certification may be earned in biology and chemistry, or biology and earth science if a total of 40 semester hours is earned in the two fields with not fewer than 16 in either. When the lesser number of hours is in chemistry, courses in general, organic and quantitative analysis or physical chemistry shall be included. When the lesser number of hours is in earth science, courses in physical and historical geology shall be required. Certification may be earned in biology and environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification and four additional semester hours in biology. The course work in biology must include botany, zoology, and microbiology. In addition, certification may be earned in chemistry and biology and environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification, four additional semester hours in biology and four additional semester hours in chemistry. The course work in biology must include botany, zoology, and microbiology; and the course work in chemistry must include quantitative analysis or physical chemistry.

* These laboratory courses are those that, in the view of the respective science faculties, specifically support the same subject matter as that being taught in the corresponding lecture courses of the discipline, whether or not the lecture and laboratory are combined under one course number or carry separate numbers in a particular institution.

3. Chemistry

Twenty semester hours, to include a minimum of one year of general chemistry, one course in organic chemistry, and one course in either quantitative analysis or physical chemistry.

Certification may be earned in chemistry and biology, chemistry and physics, or chemistry and earth science if a

total of 40 semester hours is earned in the two fields with not fewer than 16 in either. If the lesser number of hours is in biology, courses in botany, zoology, and microbiology shall be included. If the lesser number of hours is in physics, at least one semester of calculus shall be required. When the lesser number of hours is in earth science, courses in physical and historical geology shall be required. Certification may be earned in chemistry and environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification and four additional semester hours in chemistry. The course work in chemistry must include quantitative analysis or physical chemistry. In addition, certification may be earned in chemistry and biology and environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification, four additional semester hours in biology and four additional semester hours in chemistry. The course work in biology must include botany, zoology, and microbiology; and the course work in chemistry must include quantitative analysis or physical chemistry.

4. Earth Science

Twenty semester hours, to include courses in physical geology and historical geology.

Certification may be earned in earth science and chemistry or earth science and biology or earth science and physics if a total of 40 semester hours is earned in the two fields with not fewer than 16 in either. When the lesser number of hours is in chemistry, courses in general, organic and quantitative analysis or physical chemistry shall be included. If the lesser number of hours is in biology, courses in botany, zoology, and microbiology shall be included. If the lesser number of hours is in physics, at least one semester of calculus shall be required. Certification may be earned in earth science and environmental science if a total of 40 semester hours is earned which includes the 30 semester hours required for environmental science certification and 10 additional semester hours in earth science. The course work in earth science must include historical geology.

5. Physics

Twenty semester hours. Certification may be earned in both physics and mathematics if a total of 40 semester hours is earned in the two fields with not fewer than 16 in either. In either case, at least one semester of calculus shall be included.

6. Environmental Science

Thirty semester hours, to include:

12 semester hours in biology (including general biology and ecology);

12 semester hours in chemistry (including general chemistry and organic);

6 semester hours in earth science (including physical geology or its equivalent).

Dual certification in environmental science and general science requires an additional two semester hours of earth science and eight semester hours of physics.

Certification may be earned in both environmental science and biology with an additional four semester hours in biology and a total of 40 hours. The course work in biology must

include botany, zoology, and microbiology.

Certification may be earned in both environmental science and chemistry with an additional four semester hours in chemistry and a total of 40 hours. The course work in chemistry must include quantitative analysis or physical chemistry.

Certification may be earned in environmental science and biology and chemistry with four additional semester hours of biology, four additional semester hours of chemistry and a total of 40 hours. The course work in biology must include botany, zoology, and microbiology; and the course work in chemistry must include quantitative analysis or physical chemistry.

Certification may be earned in both environmental science and earth science with an additional 10 semester hours in earth science and a total of 40 hours. The course work in earth science must include historical geology.

Certified teachers who have taught environmental science may petition the Bureau of Higher Education and Teacher Certification to be "grandfathered" in with environmental science certification if they meet the following qualifications by August 1, 1999:

a. hold certification in biology, chemistry or earth science, have earned an additional six semester hours in environmentally related courses and have taught environmental science successfully for three years as verified by the employing authority; or

b. have taught environmental science successfully for five years as verified by the employing authority.

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

Carole Wallin
Executive Director

9412#038

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Honors Scholarship

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, amends the Scholarship and Grant Policy and Procedure Manual by deleting the current text of indicated sections and replacing it with the text shown, as follows:

* * *

VII B. Legislative Authority. Chapter 20-B-3 of Title 17 of the Revised Statutes of 1950, comprised of R.S. 17:3042:31 through 3042:35, enacted by Act 1085 and amended by Act 13 of the 1992 Regular Legislative Session and by Act 255 of the 1993 Regular Legislative Session and by Act 86 of the Third Extraordinary Legislative Session, 1994.

* * *

VII C.1.a. Graduate in the top five percent of the academic year's graduating class from a Louisiana public or state

(BESE) approved nonpublic high school or eligible non-Louisiana high school, as identified and certified by the city and parish school board for public high schools by the principal or headmaster of each nonpublic approved high school and by the governing board of each eligible non-Louisiana high school; or

* * *

VII D. High schools, school boards, special school governing boards, LASFAC on behalf of eligible non-Louisiana high schools and Louisiana Department of Education participation/responsibilities

* * *

VII D.1. City and parish school boards, special school governing boards, headmasters of BESE Approved nonpublic high schools, LASFAC on behalf of Eligible Non-Louisiana high schools and Louisiana Department of Education Representatives:

* * *

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

* * *

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

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

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

Example: Total graduates = 69 x .05 = 3.45
round up to 4.0

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

Example: MFP graduates = 23 x .05 = 1.4
round up to 2.0

iii. To be certified as an honors scholar the student must rank both in the top five percent of the non-Louisiana high school's total academic year graduating class, as well as in the top five percent of MFP funded Louisiana residents in the graduating class.

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

* * *

VII D.1.e. Renamed f: Each year, by the deadline specified and on the forms provided by OSFA, city and parish school boards for public high schools, principals or

headmasters for approved special schools and nonpublic BESE approved high schools, governing boards of eligible non-Louisiana high schools, and Louisiana Department of Education representatives for home study students, shall certify and submit to OSFA the names of students graduating in the top five percent of each high school's academic year graduating class or the names of those students completing an approved home study program who scored in the upper five percent in the state on the National Merit Exam.

* * *

VII D.1.f. Renamed g: If the certifying authority (school board, principal, headmaster or State Department of Education representative) elects to notify scholars of their selection, then the following disclaimer paragraph shall be included in any communication to the scholar:

* * *

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

* * *

VII H.4. Graduate: For the purposes of this Chapter, a high school graduate is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a Louisiana public or BESE approved nonpublic high school or certified by award of a high school diploma from an eligible non-Louisiana high school.

* * *

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

Eligible Non-Louisiana High School:

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

a. is in a state adjoining the State of Louisiana.
b. has provided LASFAC with acceptable evidence of an agreement dated prior to June 5, 1994, between the parish school system and the high school's local governing authority.

c. has students who graduate during the academic year preceding the award year, who were residents domiciled in Louisiana and were funded through the Louisiana Minimum Foundation Program.

d. on whose behalf, LASFAC has established criteria for ranking the school's academic year graduates in accordance with VII D. of this Chapter.

Jack L. Guinn
Executive Director

9412#008

RULE

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

SSIG Award Check Release

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces the amendment of the Scholarship and Grant Policy and Procedure Manual by deleting the current text of indicated sections and replacing it with the text shown, as follows:

VIII C.1.d. Be enrolled as a full-time undergraduate student both at the time of certification and on the 14th class day (ninth class day for Louisiana Tech) in an eligible program at an eligible school.

VIII C.1.e. Have a high school diploma with at least a 2.00 cumulative grade point average, a minimum average score of 45 on the General Educational Development (GED) Test, an ENACT composite score of at least 20, or a postsecondary grade point average of at least 2.00.

VIII C.2.b. To receive a SSIG disbursement, the student must be full-time both at the time of certification and on the 14th class day (ninth class day for Louisiana Tech).

VIII C.3.h. Must be full-time both at the time of certification and on the 14th class day (ninth class day for Louisiana Tech) to receive a SSIG disbursement.

Glossary: "First time, Full-time Enrollment" A student who, subsequent to high school graduation, enrolls for the first-time (as defined by the institution) as a college student in the fall, winter, or spring term of the award year and continues to be enrolled on the 14th class day (ninth class day for Louisiana Tech) is defined as a first time, full-time enrollee. A student who begins postsecondary or university attendance in a summer session will be considered a first-time student of the immediately succeeding fall term.

Jack L. Guinn
Executive Director

9412#007

RULE

**Department of Elections and Registration
Commissioner of Elections**

**Voter Registration at Driver's License
Facilities (LAC 31:II.Chapter 5)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority vested in the commissioner of elections by Section 114 of Title 18 of the Louisiana Revised Statutes of 1950, the commissioner of elections amends rules and regulations for the registration of voters at driver's license facilities.

Title 31

ELECTIONS

Part II. Voter Registration

**Chapter 5. Voter Registration at Driver's License
Facilities**

§501. Objective

The objective of these rules and regulations is to provide a uniform method of conducting training for any employee authorized to accept voter registration applications at driver's license facilities; to provide for voter registration at driver's license facilities which is impartial, equitable and in the best interest of the citizens of Louisiana; and to provide for an annual review to monitor the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:606 (July 1990), amended LR 20: (December 1994).

§503. Commissioner of Elections

It will be the policy of the commissioner of elections to facilitate the implementation and support of the program for voter registration at driver's license facilities. The commissioner of elections will coordinate the activities of the parish registrars of voters with the Department of Public Safety and Corrections, and for that purpose he shall:

1. provide the Department of Public Safety and Corrections with updates on the names and addresses of the parish registrars of voters;
2. provide to the Department of Public Safety and Corrections standard notices to be displayed informing the public of the availability of voter registration at driver's license facilities and the eligibility requirements for registration;
3. design in conjunction with the Department of Public Safety and Corrections the computer generated voter registration application form and provide mail voter registration applications to be used under emergency and unusual situations;
4. provide training materials to be used for voter registration; and
5. prepare a biannual report as required by the Federal Election Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by Department of Elections and Registration, Commissioner of Elections, LR 16:606 (July 1990), amended LR 20: (December 1994).

§505. Parish Registrars of Voters

It is the intention of the parish registrars of voters to cooperate to their fullest extent in the registration of voters at driver's license facilities. In that regard, parish registrars shall:

1. notify the office of the commissioner of elections immediately of any change in the office mailing address of the registrar of voters;
2. upon receipt in the registrar's office of a voter registration application form from any driver's license facility located within his parish, indicate date received on the application;
3. determine the parish in which the applicant seeks to register or if already registered seeks to change his name or address and, if not his parish, route to the appropriate registrar of voters;
4. review such voter registration application form and register applicant if sufficient information is provided. Notify applicant of registration. If insufficient information is provided, send notice to applicant at the address provided on the application informing the applicant that he has ten days from the date on which the notice was mailed to appear in the registrar's office to provide the needed information. Register applicant upon receipt of needed information and mail notice of registration to applicant. The eligibility of an applicant to vote in a particular election will be based upon the completion of the registration process by the registrar of voters prior to the close of the registration books for that particular election; and
5. if change of name or change of address, process such change and mail a new voter identification card to the voter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:606 (July 1990), amended LR 20: (December 1994).

§507. Authorized employees at Driver's License Facilities

A. Qualifications. An authorized employee at a driver's license facility shall possess the following qualifications:

1. The person shall be an official or employee of the Department of Public Safety and Corrections who is employed at a department facility for the issuance of driver's licenses or identification cards.
2. The person shall have received in-service training.
3. The person shall not participate or engage in any political activity except to exercise his right as a citizen to express his opinion privately and to cast his vote as he desires.
4. The person shall not have been convicted of any election offense.
5. The person shall not be a candidate for public office.

B. Duties. An authorized employee at a driver's license facility shall perform the following duties:

1. During regular working hours, an authorized employee shall offer voter registration to any individual who obtains, renews, or changes the name or address on a driver's license or identification card and who meets the following requirements:

a. A person who is at least 17 years of age and who is an actual resident of the state, parish, and precinct in which he

seeks to register to vote. A person 17 years old will not be eligible to vote until the age of 18.

b. A person who is not under an order of imprisonment for conviction of a felony as defined in R.S. 18:2(2).

c. A person who has not been interdicted after being declared to be mentally incompetent.

d. A person who is a United States citizen.

2. An authorized employee shall allow an applicant, who meets the above requirements and who resides at more than one place in the state with an intention to reside there indefinitely, to choose which residence will be used for registration purposes.

3. An authorized employee shall provide assistance to any applicant who would require assistance in registering to vote. Such assistance shall consist of the same assistance provided by a parish registrar of voters under the provisions of R.S. 18:106.

4. An authorized employee shall require the applicant to provide sufficient information to establish his age, identity, and residency.

5. An authorized employee shall require an applicant to indicate "None" on the application form if the applicant does not declare a party affiliation.

6. An authorized employee shall insure that the information provided on the voter registration application is legible and to the best of his knowledge accurate and complete.

7. An authorized employee shall administer any oath required on the voter registration application as authorized by R.S. 18:114(F)(7) and shall sign and date the application.

8. An authorized employee shall inform the applicant that the applicant is not officially registered to vote until the application has been received and approved by the parish registrar of voters. Upon approval by the registrar of voters, a voter identification card will be mailed to the applicant.

9. An authorized employee shall insure that the completed voter registration application is made available to the designated person who will be responsible for transmittal to the parish registrar of voters for the parish in which the driver's license facility is located. The date of transmittal shall be indicated on the application, and the transmittal shall be made within five working days of the completion of the application form unless the application is accepted within five days before the last day for registration then the application form shall be transmitted at the conclusion of each business day.

10. An authorized employee shall request of any person making a change of name or a change of address on a driver's license or identification card if such change is to be used for voter registration purposes. If affirmed, such change shall be transmitted in the same manner as a voter registration application form.

11. An authorized employee shall keep any declinations to register confidential.

C. Offenses. No person authorized to accept voter registration application forms shall knowingly, willfully, or intentionally:

1. offer, promise, solicit or accept money or anything of

present or prospective value to secure or influence a vote or registration of a voter;

2. forge, alter, deface, destroy, or remove from proper custodial care any application for voter registration; or

3. intimidate, directly or indirectly, any prospective voter in matters concerning registration or nonregistration.

D. Penalties

1. Any authorized employee who commits an offense as provided herein shall be subject to the penalties provided in R.S. 18:1461.

2. Any authorized employee who fails to comply with the provisions of law relative to registration at driver's license facilities shall be subject to the penalties established in R.S. 18:114(H).

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114, R.S. 18:2(2), R.S.18:62, R.S. 18:101, R.S. 18:102, R.S. 18:105, R.S. 18:106 and R.S. 18:1461.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:607 (July 1990), amended LR 20: (December 1994).

§509. Training

A. The Department of Elections and the registrar of voters shall train designated personnel of the Department of Public Safety and Corrections. In-service training will be provided to all employees authorized to accept voter registration application forms by these personnel.

B. The training shall include but shall not be limited to the following:

1. review responsibility of an authorized employee to offer voter registration;

2. conduct study of the voter registration application with special emphasis on problem areas;

3. discuss information which may be used to establish applicant's age, identity, and residency;

4. discuss assistance that may be provided to applicant;

5. review responsibilities of an authorized employee in insuring accuracy and legibility of voter registration application and stressing the authorized employee's responsibility for informing the applicant that the applicant is not registered until the parish registrar notifies the applicant of registration;

6. review transmittal requirements;

7. review offenses; and

8. review penalties established in R.S. 18:114(H) for noncompliance with the provisions of law relative to voter registration at driver's license facilities and in R.S. 18:1461 relative to voter registration in general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114 and R.S. 18:104-18:106.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:608 (July 1990), amended LR 20: (December 1994).

§511. Review Process

An annual meeting between the office of commissioner of elections and the Department of Public Safety and Corrections shall be held during the month of February of each year to monitor any problem areas where changes in rules and regulations or the revised statutes may be necessary. The annual meeting may be discontinued upon mutual agreement when it is felt there is no longer a need to continue to hold such meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:608 (July 1990), amended LR 20: (December 1994).

§513. Implementation

In a letter dated October 11, 1989, the United States Justice Department has advised the commissioner of elections that any rules and regulations adopted relative to the implementation of the program of registering voters at driver's license facilities will require preclearance by the United States Justice Department under the requirements of Section 5 of the Voting Rights Act. The provisions of Section 114 of Title 18 relative to voter registration at driver's license facilities have been amended by Act 10 of the Third Extraordinary Session of the 1994 Louisiana Legislature. The provisions of the Act provide an effective date of January 1, 1995. The final date of implementation of the amended rules and regulations shall be determined by whichever date, preclearance or January 1, 1995, is the later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:608 (July 1990), amended LR 20: (December 1994).

Jerry M. Fowler
Commissioner

9412#012

RULE

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

Permit Procedures (LAC 33:III.501-533) (AQ102)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 5 (AQ102).

The rule revisions will ensure that: 1) no air quality permit will be held confidential; 2) DEQ will retain records for five years; 3) all required elements will be included in all Part 70 permits; 4) DEQ does not grant federal enforceability to "state only" administrative amendments; 5) compliance measures are properly incorporated into permits; 6) acid rain permits are submitted by federal deadlines; and 7) no major source will be exempted from Part 70 requirements.

Chapter 5 incorporates air quality permit procedures to meet the requirements of the mandated federal Operating Permit Program under Title V of the Clean Air Act Amendments. The Environmental Protection Agency is reviewing the Louisiana rule and has determined that these revisions are needed prior to granting full approval.

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

* * *

[See Prior Text in A-B.6.e]

7. Research and Development Facilities. The permitting authority may allow a research and development facility to be considered as a separate source with regard to the requirements of this Chapter, provided that the facility has a different two-digit Standard Industrial Classification (SIC) code from, and is not a support facility of, the source with which it is co-located.

* * *

[See Prior Text in C-C.9]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20: (December 1994).

§507. Part 70 Operating Permits Program

* * *

[See Prior Text in A-B.1]

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The Louisiana Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), as in effect on July 21, 1992. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

* * *

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

b. Notwithstanding the time periods for application submittal established in Subsection C.1 and 1.a of this Section, permit applications for affected phase II sources under the federal Acid Rain Program shall be submitted in accordance with the timeframes specified in LAC 33:III.505.D.2.

* * *

[See Prior Text in C.1.c-J.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20: (December 1994).

§517. Permit Applications and Submittal of Information

* * *

[See Prior Text in A-F]

1. Non-disclosure Must be Requested. All information obtained under the Louisiana Environmental Quality Act (the Act) R.S. 30:2001 et seq. or these regulations; by any order, license, or permit term or condition adopted or issued under the Act or these regulations; or by any investigation authorized thereby shall be available to the public, unless non-disclosure is requested and granted in accordance with R.S. 30:2030. Claims of confidentiality for any data regarding air emissions will be denied. No permit or portion of a permit issued to a source in accordance with LAC 33:III.507 shall be held confidential.

* * *

[See Prior Text in F.2-G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20: (December 1994).

§521. Administrative Amendments

* * *

[See Prior Text in A-A.5]

6. incorporates state-only changes to terms and conditions which are not federally enforceable under 40 CFR Part 70 and which the permitting authority determines to be similar in nature to the changes listed in this Subsection.

* * *

[See Prior Text in B-B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20: (December 1994).

§527. Significant Modifications

A. Significant Modification Criteria

* * *

2. At a minimum, any change which meets the following criteria shall require significant modification procedures:

* * *

c. the change is a relaxation of reporting or recordkeeping permit terms and conditions.

B. Significant Modification Procedures

* * *

[See Prior Text in B.1-B.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022 and 2054.

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

§533. EPA Notice, Review, and Objection

* * *

[See Prior Text in A-B.4]

5. The permitting authority shall keep for five years such records and submit to EPA such information as the administrator may reasonably require to ascertain whether the state program complies with the requirements of the Federal CAA and 40 CFR Part 70.

* * *

[See Prior Text in C-E.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20: (December 1994).

James B. Thompson, III
Assistant Secretary

9412#041

RULE

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

**Storage of Volatile Organic Compounds
(LAC 33:III.2103) (AQ92)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.2103 (AQ92).

The amendment to LAC 33:III.2103 relates to the storage of volatile organic liquids utilizing reasonably available control technology (RACT). The proposed rule applies to sources in Ascension, East Baton Rouge, Iberville, Livingston, Point Coupee, and West Baton Rouge Parishes that emit at least 50 tons per year of volatile organic compounds (VOCs).

This action is required as a result of the federal Clean Air Act Amendments (CAAA) of 1990, Section 182(c) and by the directives of the United States Environmental Protection Agency (USEPA).

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

A. No person shall place, store or hold in any stationary tank, reservoir or other container of more than 250 gallons (950 liters) and up to 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound, having a true vapor pressure of 1.5 psia or greater at storage conditions, unless

such tank, reservoir or other container is designed and equipped with a submerged fill pipe or a vapor loss control system or is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere.

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

C. **Internal Floating Roof.** An internal floating roof consists of a pontoon type roof, double deck type roof or internal floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. Each opening (except rim space vents and automatic bleeder vents) shall be provided with a projection below the liquid surface. In addition, each opening (except for leg sleeves, bleeder vents, rim space vents, column wells, ladder wells, sample wells and stub drains) shall be provided with a cover equipped with a gasket. Automatic bleeder vents and rim space vents shall be gasketed and ladder wells shall be equipped with a sliding cover. This control equipment shall not be permitted if the organic compounds have a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. If the internal floating roof does not meet the specifications of this rule, for internal floating roofs, then the specifications shall be met at either the first scheduled maintenance turnaround or no later than 10 years after the date of promulgation of this rule. Any extension beyond the 10 year period, after the promulgation date shall be examined on a case-by-case basis and must be approved by the administrative authority*.

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

1. A secondary seal is not required if:

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

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

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

d. an alternate seal or seals can be used in lieu of the

primary and secondary seals required herein provided the resulting emission is not greater than that which would have resulted if the primary and secondary seals were installed. The equivalency demonstration will be made to the satisfaction of the administrative authority*.

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

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

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

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

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

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

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

4. Requirements for Guide Poles and Stilling Well Systems. Emissions from guide pole systems must be controlled for external floating roof storage tanks with a capacity greater than 40,000 gallons (approx. 151 m³) and storing a liquid having a total vapor pressure of 1.5 psia or greater. The description of the method of control and supporting calculations based upon the Addendum to American Petroleum Institute Publication Number 2517, *Evaporative Loss from External Floating Roof Tanks* (dated May, 1994), shall be submitted to the administrative authority for approval prior to installation. Controls shall include pole wiper and gasket for stilling wells and float with wiper, pole wiper and

gasketed covers for guide poles. Alternate methods of controls are acceptable if demonstrated to be equivalent to the controls in this Section. The administrative authority* must approve alternate methods of control. Installation of controls required by this Subsection shall be required by November 15, 1996. Requests for extension of the November 15, 1996, compliance date will be considered on a case-by-case basis for situations which require the tank to be removed from service to install the controls and must be approved by the administrative authority*. The requirements of this Subsection shall only apply in ozone nonattainment areas classified marginal or higher. Controls systems required by this Subsection shall be inspected semiannually for rips, tears, visible gaps in the pole or float wiper, and/or missing sliding cover gaskets. Any rips, tears, visible gaps in the pole or float wiper, and/or missing sliding cover gaskets shall be repaired in accordance with this Section in order to avoid noncompliance with this Section. Repairs necessary to be in compliance must be initiated within seven working days of identification by ordering appropriate parts. Repairs shall be completed within three months of the ordering of the repair parts. However, if it can be demonstrated that additional time for repair is needed, the administrative authority may extend this deadline.

E. Vapor Loss Control System. A vapor loss control system consists of a gathering system capable of collecting the volatile organic compound vapors and a vapor disposal system capable of processing such organic vapors overall control efficiency of the vapor loss control system shall be a minimum of 95 percent. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

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

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

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

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

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

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

H. Compliance Tests

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

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

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

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

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

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

e. Additional performance test procedures, or equivalent test methods, approved by the administrative authority*.

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended, LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20: (December 1994).

James B. Thompson, III
Assistant Secretary

9412#045

RULE

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Continuing Education (LAC 46:XXXVII.709)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:840, the Department of Health and Hospitals, Board of Embalmers and Funeral Directors has adopted LAC 46:XXXVII.709, Continuing Education, effective January 1, 1995.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 7. License

§709. Continuing Education

A. In order to ensure that all licensees maintain and improve upon their professional skills, each person holding a license issued by the board is required to participate in continuing education as a condition for renewal of license(s) subject to the conditions described herein.

B. Definitions

Accredited Sponsor—a person or organization conducting or sponsoring a specific program of instruction which has been approved by the board.

Active Licensee—an individual licensed by the board and either conducting the business of funeral directing or the science of embalming in any capacity in this state.

Approved Program—a continuing education program activity which has received prior approval by the board.

Hour of Continuing Education—a 50-minute clock hour completed by a licensee in attendance at an approved continuing education program.

Inactive Licensee—an individual licensed by the board but not conducting the business of funeral directing or the science of embalming in any capacity in this state.

C. Standards for Course Approval. A continuing education activity will be considered for approval if the executive director, on behalf of the board, determines that:

1. it constitutes an organized program of learning that contributes directly to the professional competence of the licensee;

2. it pertains to subject matter which relates to the practice of funeral directing, mortuary science or related subjects; and,

3. it is conducted by an individual(s) who has specialized expertise in the subject matter.

D. Approval of Sponsors, Program and Activities

1. Any person or organization who wishes to present an educational program must submit in a form approved by the board an application that outlines the course content, total hours of instructions, the date and location of training and the name(s) and professional qualifications of the instructor(s). Such application shall be submitted at least 30 days in advance of the proposed training and shall be accompanied by a nonrefundable fee in an amount set by the board. The executive director, on behalf of the board, shall either approve or reject the application within 20 days of application and shall so notify the applicant in writing.

2. Any licensee who seeks credit for participation in an educational activity that did not receive prior approval by the executive director may submit a request for postapproval of the activity. Such application shall be in a form approved by the board and shall be submitted within 30 days of the completion of the activity along with a nonrefundable fee in an amount set by the board. The executive director, on behalf of the board, shall either approve or reject the application within 30 days of application and shall so notify the applicant in writing. No requests for approval shall be accepted by the executive director less than 30 days prior to the license renewal date.

3. An appeal of denial of an application may be made, in writing, to the board who will rule on the appeal at the next scheduled board meeting. Such appeal must be filed in the board office within 15 days of notification of denial.

4. The board or its authorized representative may monitor, inspect or review any approved continuing education activity and upon evidence of significant variation in the program presented from the program approved, may disapprove all or any part of the approved hours granted the activity.

5. Any person or organization sponsoring or conducting an approved program shall submit, on a form approved by the board, a sworn affidavit attesting to the attendance and satisfactory completion of training of all persons in attendance. Such information shall be provided to the board within 15 days following the presentation of material. The board may initiate disciplinary action against any licensee who knowingly falsely certifies training or who attempts through subterfuge to by-pass the requirements listed herein.

6. A provider of an approved continuing education activity may charge a reasonable fee to that individual registered for the activity. An individual may not be required to pay an additional fee in the form of registration for ancillary activities or events that are concurrent to the approved continuing education activity if the individual wishes only to attend the continuing education portion of the program. All fees shall be uniformly charged to all registrants, unless the authorized sponsor wishes to exempt employees of the sponsoring organization.

E. Continuing Education Requirements

1. All persons licensed by the board shall complete a minimum of four hours of approved continuing education in each one-year period to coincide with the renewal date of the license as a requirement of license renewal.

2. Carryover credit of continuing education hours will not be permitted.

3. The maximum credit hours for participation in any course shall not exceed that number approved by the board.

4. A licensee may not receive credit for attending the same course more than once during the same one-year period.

5. No credit shall be granted for partial completion of any continuing education activity.

6. Two hours credit may be granted for attendance at an entire, regularly scheduled board meeting so long as the individual makes a prior request and follows board procedures.

7. A licensed individual who conducts an approved course may receive credit for attendance at continuing education. However, the requirements of Paragraph 4 of this Subsection will apply.

F. Exemptions/Waivers

1. Continuing education requirements for individuals licensed by examination shall be waived for the first time renewal of license.

2. Those individuals licensed in Louisiana but residing outside of the state and not practicing the science of embalming or the business of funeral directing in any capacity in this state shall be exempt from the continuing education requirements set forth in this rule. Any individual that returns to work in this state to practice the science of embalming or the business of funeral directing in any capacity shall meet the continuing education requirements.

3. Those persons in an "inactive" status will be exempted from the continuing education requirement. Any person changing from the "inactive" status to an "active" status shall meet the continuing education requirement.

4. Those persons in an active military status will be exempted, upon request, from the continuing education requirement. Upon release from active duty and return to residence in the state, the individual shall meet the continuing education requirement.

5. Upon request, the executive director, on behalf of the board, may authorize partial or full exemption to the continuing education requirements based upon an extreme personal or family hardship. Such request must be made at least 30 days prior to the expiration of license and the executive director shall require documentation of hardship.

G. Record-keeping Procedures

1. It shall be the responsibility of the board and the individual licensee to maintain records of continuing education of the individual.

2. All records pertaining to training will be retained by the sponsor for a period of not less than two years and shall be subject to examination by the board.

H. Failure to Comply. Failure by any licensee to comply fully with the continuing education requirements as presented in this rule will result in suspension of said license(s) and the board will notify, in writing, the licensee of the suspension. An individual will be allowed to reinstate said license(s) only

after application to the board, satisfactory completion of the required continuing education, and payment of a reinstatement fee of \$150. Such application for reinstatement shall not be made prior to 30 days after notice of suspension is mailed and shall be made in such a manner as the board may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20: (December 1994).

Dawn P. Scardino
Executive Director

9412#011

RULE

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Funeral Establishments (LAC 46:XXXVII.1107)

In accordance with the applicable provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:840, the Department of Health and Hospitals, Board of Embalmers and Funeral Directors has amended LAC 46:XXXVII. Chapter 11, Funeral Establishments.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 11. Funeral Establishments

§1107. Inspection

B. Each establishment must consist of and be inspected for an adequate building containing a display room, which must contain a minimum of six adult caskets, embalming room, office or arrangement room, rest rooms (separate for men and women), parlors or chapel. They shall also contain furnishings, equipment and other facilities that meet the standards of the board. New establishments, a change of ownership on existing establishments and/or location changes of existing establishments must meet the above requirements and, in addition thereto, must supply to the board approved certificates which reflect that their building meets the standards of the Fire and Sanitary Codes of the state of Louisiana, as well as all city, parish and state licensing and zoning requirements, prior to licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended November 1972, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 4:356 (September 1978), LR 4:510 (December 1978), LR 5:278 (September 1979), LR 6:615 (October 1980), amended by the Department of Health and Hospitals, Board of Embalmers and

Funeral Directors LR 20:191 (February 1994), LR 20: (December 1994).

Dawn Scardino
Executive Director

9412#010

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Meetings, Examinations and Encroachments (LAC 46:LXXXV.103, 803, and 1005)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq., the Board of Veterinary Medicine has amended LAC 46:LXXXV.103, 803 and 1005.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 1. Board of Veterinary Medicine

§103. Meetings

A. The annual meeting of the Louisiana Board of Veterinary Medicine shall be held during the last quarter of the fiscal year in April, May or June of each year, at a time and place to be announced by posting public notice of the time and place of said meeting 24 hours in advance of such meeting at the permanent office of the Louisiana Board of Veterinary Medicine in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 16:223 (March 1990), LR 19:345 (March 1993), LR 20: (December 1994).

Chapter 8. Registered Veterinary Technicians

§803. Examinations

B. A passing score on the VTNE shall be deemed to be the pass point as determined by the examining agency contracted with by the board for the formulation, administration and/or grading of the VTNE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:226 (March 1990), amended LR 20: (December 1994).

Chapter 10. Rules of Professional Conduct

§1005. Encroachments Upon Another's Practice

Any direct effort which in any way encroaches upon the practice of another veterinarian is a violation of these rules. It is the right of any veterinarian, without fear or favor, to give

proper advice to those seeking relief against unfaithful or neglectful veterinary services, generally after communication with the veterinarian of whom complaint is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March 1990), amended LR 20: (December 1994).

Vikki L. Riggle
Executive Director

9412#019

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Veterinary Practice (LAC 46:LXXXV.Chapter 7)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq., the Board of Veterinary Medicine has amended LAC 46:LXXXV.Chapter 7.

Title 7

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

* * *

Veterinarian-Client-Patient-Relationship—exists when:

* * *

3. the veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that:

a. the veterinarian or associate veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of an examination of the animal(s) and/or the animal's records, and/or by medically appropriate and timely visits to the premises where the animal(s) are kept, or

b. the veterinarian has agreed to serve as a consultant to the licensed, primary care veterinarian with whom the client and patient have established a relationship which meets the criteria of Subparagraph a above, and

c. the primary veterinarian is readily available for follow-up in the event of adverse reactions of the failure of the regimen of therapy.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20: (December 1994).

§701. Record Keeping

* * *

D. A consultant veterinarian who dispenses a legend drug

upon authorization of the primary care veterinarian must establish a patient record and/or dispensing log which shall contain at least the following information: name of patient and/or other identification, breed, sex, name of client/owner, name of drug dispensed, amount dispensed, date dispensed, name of the patient's primary care veterinarian and his/her diagnosis or therapy regime for which the drug being dispensed has been prescribed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980) amended LR 16:225 (March 1990), LR 19:1329 (October 1993), LR 20: (December 1994).

§703. Consultant

* * *

The term "consultant" as used in the definition of a veterinarian-client-patient relationship found in §700 may only be applied to a Louisiana licensed veterinarian. To perform a consultation, the consultant veterinarian must speak directly with the patient's primary provider of veterinary care who must also be a licensed veterinarian in Louisiana or in the patient's primary or most recent state of residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 16:225 (March 1990), LR 20: (December 1994).

§705. Prescribing and Dispensing Drugs

A. The following activities are prohibited:

1. No legend drug, as defined in §700, shall be administered, prescribed, dispensed, delivered to, or ordered for animals with which the veterinarian has not established a veterinarian-client-patient relationship as a primary care provider or as a consultant to the primary care provider. A consultant veterinarian who dispenses a legend drug must maintain records in accordance with §701.

2. No controlled substance, as defined in §700, shall be administered, prescribed, dispensed, delivered to, or ordered for animals with which the veterinarian has not established a veterinarian-client-patient relationship as a primary care provider by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof, and determined that such controlled substance is therapeutically indicated following said examination.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16:226 (March 1990), LR 19:1329 (October 1993), LR: (December 1994).

Vikki L. Riggle
Executive Director

9412#020

RULE

Department of Health and Hospitals Office of Public Health

Fetal Death Certificate (LAC 48:V.12315)

Under the authority of R.S. 40:5 and 40:33, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, has adopted the following rule, pursuant to R.S. 40:47, promulgating instructions for preparing a Louisiana Certificate of Fetal Death (Stillbirth) by adding §12315 to Chapter 123 of Title 48 of the Louisiana Administrative Code.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 123. Preparation of Certificates

§12315. Preparation of Certificate of Fetal Death

(PHS 6)

A. Fetal Death Definition and Mandatory Reporting. Each spontaneous fetal death of 20 complete weeks gestation or more, calculated from the date the last normal menstrual cycle began to the date of delivery, or a weight of 350 grams or more, which occurs in this state shall be reported within five days after delivery to the vital records registry on a Certificate of Fetal Death (PHS 6) or as otherwise directed by the state registrar.

B. Reporting Responsibility. When a Certificate of Fetal Death is required and the dead fetus was delivered in an institution, the person in charge of the institution shall prepare the certificate and secure the certification of the medical attendant. The original certificate shall be provided to the funeral director responsible for disposition of the fetal remains. When a Certificate of Fetal Death is required and the dead fetus was not delivered in an institution, the funeral director shall obtain the certification of the attendant or coroner and shall prepare the certificate.

C. Disposition of Fetal Remains. When a fetal death occurs and a Certificate of Fetal Death is required, the fetal remains shall be released to a Louisiana licensed funeral director only.

D. Preparation of Certificate of Fetal Death (PHS 6)

1. NAME OF FETUS (OPTIONAL) (Item 1). This is an optional item. Leave the item blank, or enter the name of the fetus as provided by the mother or the mother's husband. If the mother was married at the time of conception, the surname of the fetus shall be the surname of the husband; or, if the mother and her husband agree, the surname of the fetus may be the maiden name of the mother. If the mother was unmarried at the time of conception, the surname of the fetus shall be the maiden name of the mother.

2. FACILITY NAME (If not institution, give street and number) (Item 2). Enter the full name of the hospital, free-standing birthing center, or other facility where the delivery occurred. If the delivery occurred in a moving conveyance en route to or on arrival at a facility, enter the full name of the

facility followed by "En Route." If the delivery occurred at home, enter the house number and street name of the place where delivery occurred. If delivery occurred at some place other than those described above, enter the number and street name of the location. If the delivery occurred on a moving conveyance that was not en route to a facility, enter as the place of delivery the address where the fetus was first removed from the conveyance.

3. CITY, TOWN, OR LOCATION OF DELIVERY (Item 3). Enter the name of the city, town, village, or location where the delivery occurred. For deliveries occurring on a moving conveyance, enter the city, town, village, or location where the fetus was first removed from the conveyance. If a dead fetus is found in this state and the place of fetal death is unknown, the fetal death shall be registered in this state. The place where the fetus was found shall be considered the place of fetal death.

4. PARISH OF DELIVERY (Item 4). Enter the name of the parish where the delivery occurred. For deliveries occurring on a moving conveyance, enter the parish where the fetus was first removed from the conveyance.

5. DATE OF DELIVERY (Month, Day, Year) (Item 5). Enter the exact month, day, and year the fetus was delivered. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month. Pay particular attention to the entry of month, day, and year when the delivery occurs around midnight or on December 31. Consider a delivery at midnight to have occurred at the end of the day rather than the beginning of the next day.

6. SEX OF FETUS (Item 6). Enter male, female, or undetermined. Do not abbreviate or use other symbols. Do not leave this item blank.

7. MOTHER'S NAME (First, Middle, Last) (Item 7a). Type or print the first, middle, and last name of the mother. This is the mother's current legal name.

8. MAIDEN SURNAME (Item 7b). Enter the last name of the mother as given at birth or adoption, not a name acquired by marriage.

9. DATE OF BIRTH (Month, Day, Year) (Mother) (Item 8). Enter the exact month, day, and year that the mother was born. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

10. RESIDENCE—STATE (Mother) (Item 9a). Enter the name of the state in which the mother lives. This may differ from the state in her mailing address. If the mother is not a U.S. resident, enter the name of the country and the name of the unit of government that is the nearest equivalent of a state.

11. RESIDENCE—PARISH (Mother) (Item 9b). Enter the name of the parish in which the mother lives.

12. RESIDENCE—CITY, TOWN, OR LOCATION (Mother) (Item 9c). Enter the name of the city, town, or location where the mother lives. This may differ from the city, town or location used in her mailing address.

13. RESIDENCE—STREET AND NUMBER (Mother) (Item 9d). Enter the number and street name of the place where the mother lives.

14. RESIDENCE—INSIDE CITY LIMITS? (Yes or no) (Mother) (Item 9e). Enter "Yes" if the location entered in Item 9c is incorporated and the mother's residence is inside its boundaries. Otherwise, enter "No."

15. RESIDENCE—ZIP CODE (Mother) (Item 9f). Enter the ZIP Code of the place where the mother resides.

16. FATHER'S NAME (First, Middle, Last) (Item 10). If the fetus was born to a mother who was married at the time of delivery, type or print the name of her husband. If the fetus was conceived in wedlock, but delivered after a divorce was granted or after the husband died, type or print the name of the mother's deceased or divorced husband. If the fetus was conceived and delivered out of wedlock to a divorced, widowed, or never-married mother, make no entry regarding the father's name and omit items 10, 11, 12b, 13b, 14b, and 15c and 15d.

17. DATE OF BIRTH (Month, Day, Year) (Father) (Item 11). Enter the exact month, day, and year that the father was born. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

18. OF HISPANIC ORIGIN? (Specify No or Yes - If yes, specify Cuban, Mexican, Puerto Rican, etc.) (Mother and Father) (Items 12a and 12b).

a. Check "No" or "Yes." If "Yes" is checked, enter the specific Hispanic group. Item 18 should be checked for the mother on all reports and for the father in all cases where the name of the father is shown on the report. Do not leave this item blank. The entry in this item should reflect the response of the informant.

b. For the purposes of this item, "Hispanic" refers to people whose origins are from Spain, Mexico, or the Spanish-speaking countries of Central and South America. Origin can be viewed as the ancestry, nationality, lineage, or country in which the person or his or her ancestors were born before their arrival in the United States.

c. There is no set rule as to how many generations are to be taken into account in determining Hispanic origin. A person may report his or her Hispanic origin based on the country of origin of a parent, grandparent, or some far removed ancestor. The response should reflect what the person considers himself or herself to be and is not based on percentages of ancestry. Although the prompts include the major Hispanic groups of Cuban, Mexican, and Puerto Rican, other Hispanic groups should also be identified in the space provided.

d. If a person indicates that he or she is of multiple Hispanic origin, enter the origins as reported (for example, Mexican-Puerto Rican.) If a person indicates that he or she is Mexican-American or Cuban-American, enter the Hispanic origin as stated.

e. This item is not a part of the race item. A person of Hispanic origin may be of any race. Each question, Race and Hispanic Origin, should be asked independently.

19. RACE—American Indian, Black, White, etc. (Specify below) (Mother and Father) (Items 13a and 13b).

a. Enter the race of the mother and the father as obtained from the parent(s) or other informant. This item should be completed for the mother on all reports and for the

father in all cases where the name of the father is shown on the report. The entry in this item should reflect the response of the informant.

b. For Asians and Pacific Islanders, enter the national origin of the mother and the father, such as Chinese, Japanese, Filipino, or Hawaiian. If the informant indicates that the mother and/or father is of mixed race, enter both races.

20. EDUCATION (Specify only highest grade completed) Elementary/Secondary (0-12) — College (1-4 or 5+) (Mother and Father) (Items 14a and 14b). Enter the highest number of years of regular schooling completed by the mother and father in either the space for elementary/secondary school or the space for college. An entry should be made in only one of the spaces. The other space should be left blank. Report only those years of school that were completed. A person who enrolls in college but does not complete one full year should not be identified with any college education in this item. Count formal schooling. Do not include beauty, barber, trade, business, technical or other special schools when determining the highest grade completed.

21. OCCUPATION AND BUSINESS/INDUSTRY (Worked during last year) (Mother and Father) (Items 15a and 15c).

a. Enter the information even if the parent(s) was retired, disabled, or institutionalized at the time of fetal death. Enter the occupation of the parent(s) during the last year. The occupation is the kind of work the parent(s) did during most of the previous year, such as claim adjuster, farmhand, coal miner, homemaker, college professor, etc. Even if the mother resigned her employment early in the pregnancy, that occupation should be reported.

b. If the mother did not work outside her home in the previous 12 months, report her occupation as "Homemaker" and her industry (Item 15b) as "Own home." If the father did not work during the previous 12 months, report his occupation as "Unemployed" and the industry (Item 15d) as "None." In determining which occupation to report for a parent who held more than one job during the year, give the occupation held during the pregnancy. If both jobs were held during the pregnancy, give the occupation worked for the longest period of time.

c. Enter "Student" if the parent(s) was a student and was never regularly employed or employed full time during the year prior to delivery. If questions arise about what classification to use for an occupation or industry, you may find the handbook *Guidelines for Reporting Occupation and Industry on Death Certificates* helpful.

22. BUSINESS/INDUSTRY (Mother and Father) (Items 15b and 15d). Enter the kind of business or industry to which the occupation listed in 15a and/or 15c was related, such as insurance, farming, coal mining, hardware store, retail clothing, university, or government. Do not enter firm or organization names.

23. SIGNATURE OF PHYSICIAN OR CORONER (Item 16). The person legally responsible shall sign in the space in permanent black ink indicating professional status, i.e., M.D. or Coroner. The physician or coroner shall limit his signature to the space provided. *Note:* This section shall only be completed by the attending physician or coroner (including assistants) certifying death. No one else may sign for him and

facsimiles or stamps shall not be acceptable. Check "M.D.," "D.O.," "C.N.M." or "Other" as appropriate. If "Other," enter "Coroner" or description of person certifying.

24. SIGNATURE AND ADDRESS OF FUNERAL DIRECTOR (Item 17). The funeral director or person authorized to act in behalf of the funeral director shall sign in black, permanent ink and include the business address.

25. METHOD OF DISPOSITION (Burial, cremation, removal, other) (Item 18). Check the appropriate block. If "other" is checked, specify method of disposition. Enter the date of disposition.

26. NAME AND LOCATION OF CEMETERY OR CREMATORIUM (Item 19). Enter the official name, address or location, including city or location and state of the cemetery or crematorium where final disposition is to be made.

27. BURIAL TRANSIT PERMIT (Item 20). The number of the Burial Transit Permit is entered here by the local registrar or special agent issuing it at the time of issuance. Note that permits are only issued upon presentation of a properly completed Fetal Death Certificate. However, if a funeral director presents a Fetal Death Certificate completed to the limits of his ability and resources and for reasons beyond his control he is unable to submit an entirely completed certificate, a permit shall be issued. The permit is issued with the provision and understanding that the funeral director will present a completed document as soon as possible. In the event that the funeral director abuses the privilege, it will be withdrawn.

28. PARISH OF ISSUE (Item 21). Enter the parish name in full where the permit was issued.

29. DATE OF ISSUE (Item 22). Enter the date that the Burial Transit Permit was issued.

30. SIGNATURE OF LOCAL REGISTRAR (Item 23). Enter the signature of the local registrar of the parish where the certificate is filed. The signature shall be in permanent black ink.

31. CAUSE OF DEATH (Item 24).

a. The section on cause of death consists of two parts. Part I is for reporting the sequence of events leading to the fetal death, proceeding backward from the immediate cause of fetal death. In Part II, other significant contributory conditions to the fetal death are reported. In reporting the cause of fetal death, conditions in the fetus or mother, or of the placenta, cord, or membranes, should be reported if they are believed to have adversely affected the fetus. Cause of fetal death should include information provided from tissue analysis, autopsy, or any other type of postmortem examination. If microscopic examinations for a fetal death are still pending at the time the report is filed, the additional information should be reported to the registrar as soon as it is available.

b. Only one cause is to be entered on each line of Part I. Additional lines should be added between the printed lines, when necessary. For each cause, indicate in the space provided at the end of the line whether the condition was fetal or maternal. The underlying cause of fetal death should be entered on the lowest line used in Part I. The underlying cause of fetal death is the condition that started the sequence

of events between the normal health of the mother or fetus and the immediate cause of the fetal death.

c. In Part I, the immediate cause of fetal death is reported on line (a). This is the fetal or maternal disease or condition directly causing the fetal death. An immediate cause of fetal death must always be reported and entered on line (a). It can be the sole entry in the cause of fetal death section if that condition was the only condition causing the fetal death.

d. On line (b) report the disease, injury, or complication, if any, that gave rise to the immediate cause of fetal death. If this in turn resulted from another condition, record that condition on line (c). The underlying cause of fetal death should be reported on the lowest line used in Part I.

e. The words "due to (or as a consequence of)," which are printed between the lines of Part I, apply not only to sequences with an etiological or pathological basis but also to sequences in which an antecedent condition is believed to have prepared the way for the more immediate cause by damage to tissues or impairment of function.

f. If an accident, poisoning, or violence to the mother caused death to the fetus, a brief description of the external cause should be entered on the line immediately below the description of the type of injury or poisoning.

g. If the immediate cause of death arose as a complication of, or from an error or accident in surgery, or other procedure or treatment, enter this on the line below the immediate cause with a note of the circumstances and the condition for which the procedure or other treatment was being carried out.

h. Space is provided at the end of each line in Part I for recording whether the condition was fetal or maternal. This should be entered for all conditions.

i. In Part II, record all important diseases or conditions in the fetus or mother that were present at the time of fetal death, and that may have contributed to the fetal death but did not result in the underlying cause of fetal death listed.

j. In many instances, information on the cause of fetal death may be pending further study of tissue or autopsy results or a pathology report. When additional information is obtained, the physician or coroner should file a supplemental report of the cause of fetal death. The supplemental report will result in amendment of the fetal death certificate to reflect the additional information.

32. FETUS DIED BEFORE LABOR, DURING LABOR OR DELIVERY, UNKNOWN (Specify) (Item 25). Indicate when the fetus died by specifying one of the above choices.

33. NOW-LIVING (Item 26a). Enter the number of children born alive to this mother who are still living at the time of this delivery. Do not include children by adoption. Check "None" if this is the first delivery to this mother or if all previous children are dead.

34. NOW DEAD (Item 26b). Enter the number of prior children born alive to this mother who are no longer living at the time of this delivery. Do not include children by adoption. Check "None" if this is the first delivery to this mother or if all previous children are still living.

35. DATE OF LAST LIVE BIRTH (Month, year) (Item 26c).

a. Enter the date (month and year) of birth of the last live-born child of the mother.

b. If this report is for the second delivery of a twin set, enter the date of birth for the first baby of the set, if it was born alive. Similarly, for triplets or other multiple deliveries, enter the date of birth of the previous live birth of the set. If all previous born members of a multiple set were born dead, enter the date of the mother's last delivery that resulted in a live birth.

c. Enter "-", "Not Applicable," or "None," if the mother has not had a previous live birth. Do not leave this item blank.

d. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

36. OTHER TERMINATIONS (Do not include this fetus) NUMBER (Item 26d). Enter the number of fetuses that were delivered dead regardless of the length of gestation. Include each recognized loss of a product of conception, such as ectopic pregnancy, miscarriage, stillbirth, and spontaneous or induced abortion. Do not include this fetus. Check "None" if this is the first pregnancy for this mother or if all previous pregnancies resulted in live-born infants.

37. DATE OF LAST OTHER TERMINATION (Month, Year) (Item 26e).

a. Enter the date (month and year) of the last termination of pregnancy that was not a live birth regardless of the length of gestation. If the mother has never had such a termination, enter "-", "Not Applicable," or "None." Do not leave this item blank. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

b. If this report is the second delivery of a twin set and the first was born dead, enter the date of delivery of that fetus. Similarly, for other multiple births, if any previous member of the set was born dead, enter the date of delivery of that fetus. If all previous born members of a multiple set were born alive, enter the date of the mother's last delivery that resulted in a fetal death.

38. MOTHER MARRIED? (At delivery, conception, or any time between) (Yes or No) (Item 27). Enter "Yes" if the mother was married at the time of conception, at the time of delivery, or at any time between conception and delivery. Otherwise, enter "No." A person is no longer married when the final divorce decree is issued.

39. DATE LAST NORMAL MENSES BEGAN (Month, Day, Year) (Item 28).

a. Enter the exact date (month, day, year) of the first day of the mother's last normal menstrual period, as obtained from the physician or hospital record. If the information is unavailable from these sources, obtain it from the mother.

b. Enter the full name of the month—January, February, March, etc. Do not use a number or abbreviation to designate the month.

c. If the exact day is unknown but the month and year are known, obtain an estimate of the day from the mother, her physician, or the medical record. If an estimate of the date cannot be obtained, enter the month and year only.

d. Enter "Unknown" if the date cannot be determined. Do not leave this item blank.

40. MONTH OF PREGNANCY PRENATAL CARE BEGAN—First, Second, Third, etc. (Specify) (Item 29).

a. Enter the number of the month in this pregnancy (second, third fourth, etc.) when the mother first received care from a physician or other health professional or attended a prenatal clinic. Do not enter the name of the given month.

b. The month of the pregnancy in which prenatal care began is measured from the date of conception. Prenatal care begins when a physician or other health professional first examines and/or counsels the pregnant woman.

c. If no prenatal care was received, enter "None." If Item 30 is reported "None," this item should also be completed as "None." Do not leave this item blank.

41. PRENATAL VISITS—Total Number (If none, so state) (Item 30).

a. Enter the number of visits made for medical supervision of the pregnancy from a physician or other health care provider during the pregnancy. If no prenatal care was received, enter "None." If Item 29 is reported as "None," this item should also be completed as "None." Do not leave this item blank.

b. If "None" is entered in Item 29 and a number is reported in Item 30, check to determine if a mistake has been made.

42. WEIGHT OF FETUS (Specify unit) (Item 31). Enter the weight as shown in the hospital record in either grams or pounds and ounces. Do not convert from one measure to the other. Specify the type of measure used (grams or pounds and ounces).

43. CLINICAL ESTIMATE OF GESTATION (Weeks) (Item 32). Enter the length of gestation as estimated by the attendant. Do not compute this information from the date of last normal menses began and date of delivery. If the attendant has not done a clinical estimate of gestation, enter "None." Do not leave this item blank.

44. PLURALITY—Single, Twin, Triplet, etc. (Specify) (Item 33a). Specify the delivery as single, twin, triplet, etc.

45. IF NOT SINGLE BIRTH—Born First, Second, Third, etc. (Specify) (Item 33b). Specify the order in which the fetus being reported was delivered—first, second, etc. If this is a single delivery, leave the item blank.

46. MEDICAL RISK FACTORS FOR THIS PREGNANCY (Check all that apply) (Item 34a). Check each of the medical risk factors that the mother experienced during the pregnancy. Complications should be entered even if they are a part of the cause of fetal death in Item 24. If the mother experienced medical risk factor(s) not identified in the list—for example other infectious diseases, AIDS, or syphilis—check "Other" and enter the risk factor on the line provided. Medical risk factors should be identified from the hospital or physician record. If there were no medical risk factors, check "None." Do not leave this item blank.

47. OTHER RISK FACTORS FOR THIS PREGNANCY (Complete all items) (Item 34b).

a. Complete each question/statement. Check "Yes" for tobacco use if the mother smoked tobacco at the time of pregnancy. Check "No" if the mother did not smoke tobacco

at any time during the pregnancy. If "Yes" is checked, specify the average number of cigarettes the mother smoked per day during her pregnancy. If, on an average, she smoked less than one cigarette per day, enter "Less than 1." If "No" is checked, do not make any entry on the line requesting the average number of cigarettes per day.

b. Check "Yes" for alcohol use if the mother consumed alcoholic beverages during her entire pregnancy. Check "No" if the mother did not consume any alcoholic beverages during her entire pregnancy. If yes is checked, specify the average number of drinks she consumed per week. One drink is equivalent to 5 ounces of wine, 12 ounces of beer, or 1½ ounces of distilled liquor. If, on the average, she drank less than one drink per week, enter "Less than 1." If "No" is checked, do not make an entry on the line requesting the average number of drinks per week.

c. Enter the entire amount of weight gained by the mother during the pregnancy in pounds. Do not enter the total weight of the mother. If no weight was gained, enter "None." If the mother lost weight during the pregnancy, enter the amount of weight lost (for example, "Lost 10 pounds"). Do not leave this item blank.

48. OBSTETRIC PROCEDURES (Check all that apply) (Item 35). Check each type of procedure that was used during the pregnancy. More than one procedure may be checked. If a procedure was used that is not identified in the list, check "Other" and specify the procedure on the line provided. If no procedures were used, check "None." Do not leave this item blank. This information should be obtained from the mother's medical chart or the physician.

49. COMPLICATIONS OF LABOR AND/OR DELIVERY (Check all that apply) (Item 36). Check each medical complication present during labor and/or delivery. Check complications here even if they are a part of the cause of fetal death in Item 24. If a complication was present that is not identified in the list, check "Other" and specify the complication on the line provided. If there were no complications, check "None." Do not leave this item blank. This information should be obtained from the mother's medical chart or the physician.

50. METHOD OF DELIVERY (Check all that apply) (Item 37). Check the method of delivery of the fetus. If more than one method was used, check all methods that apply to this delivery. Do not leave this item blank. This information should be obtained from the mother's medical chart or the physician.

51. CONGENITAL ANOMALIES OF FETUS (Check all that apply) (Item 38). Check each anomaly of the fetus. Do not include birth injuries. The checklist of anomalies is grouped according to major body systems. If an anomaly is present that is not identified in the list, check "Other" and specify the anomaly on the line provided. Note that each group of system-related anomalies includes an "Other" category for anomalies related to that particular system. If there is a question as to whether the anomaly is related to a specific system, enter the description of the anomaly in "Other (Specify)" at the bottom of the list. If there are no congenital anomalies of the fetus, check "None." Do not leave this item blank. This information should be obtained from the medical chart or the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5, 40:33, and 40:47.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20: (December 1994).

Rose V. Forrest
Secretary

9412#043

RULE

Department of Health and Hospitals Office of Public Health

Genetic Diseases Services (LAC 48:V.6303)

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, has amended Subsections A and F and added Subsection G and supporting references of LAC 48:V.6303 as follows. The rule specifies requirements for laboratories providing state-mandated newborn screening tests. It also restates current requirements for patients with inborn errors of metabolism disorders to receive special formula through the Office of Public Health.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

A. Purpose and Scope. R.S. 40:1299 et seq., require physicians to test Louisiana neonates for phenylketonuria, congenital hypothyroidism and sickle cell disease. The Office of Public Health (OPH) maintains a laboratory for performing screening tests for hyperphenylalaninemia manifest in phenylketonuria (PKU), for Thyroxine (T₄) and thyroid stimulating hormone (TSH) used in congenital hypothyroidism detection, and hemoglobin electrophoresis for sickle cell disease. Definitive diagnostic tests are provided if the screening test is positive. The newborn screening battery may also be available through other laboratories. Act 0997, 1993 Legislative Regular Session of the State of Louisiana, removed galactosemia from the newborn screening battery and replaced it with a program for informing physicians and hospitals of the current medical standards for diagnosing and treating children who exhibit clinical symptoms which suggest the presence of galactosemia.

* * *

F. Medical/Nutritional Management

1. In order for a patient with PKU or other rare inborn errors of metabolism to receive the special formulas for the treatment of these disorders from the state's Genetics Program, the following guidelines must be met:

a. The patient must be a resident of the state of Louisiana.

b. The patient must receive a medical evaluation at least once annually at Tulane Human Genetics Program Clinic or from another medical center program providing specialized management of metabolic patients (specialized management must include nutrition consultation by a licensed and/or registered dietician).

c. The patient must provide blood samples as requested by the medical specialist under contract with the program or laboratory test results from an outside lab for phenylalanine and tyrosine levels as frequently as determined by the treating physician.

d. The patient must include dietary records with the submission of each blood specimen if the patient is receiving services through the Tulane Human Genetics Program.

e. All insurance forms relative to charges for special formula must be signed and submitted by the parent or appropriate family member.

f. The parent or appropriate family member must inform the Genetics Program office immediately of any changes in insurance coverage.

G. Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers Not Using the State Laboratory. Effective February 1, 1995 laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1:

1. The testing battery must include testing for phenylketonuria (PKU), congenital hypothyroidism and sickle cell disease.

2. Only the following testing methodologies are acceptable without prior approval:

Disease	Testing Methodology
PKU Effective July 1, 1996:	Fluorometric Guthrie phenylalanine level cut-off: ≥ 4 mg/dl ≥ 2 mg/dl for specimens obtained from a newborn under 24 hours of age ≥ 4 mg/dl for specimens obtained from a newborn 24 hours of age or older
Congenital Hypothyroidism	Radioimmunoassay (RIA) or Enzyme Immunoassay (EIA) methods for T ₄ and Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates
Sickle Cell Disease	Hemoglobin Electrophoresis (cellulose acetate and citrate agar or isoelectric focusing) or high performance liquid chromatography (HPLC) (Sickle Dex is not acceptable)
New FDA approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 30 days before the intended date of implementation (see Genetics Diseases Program mailing address below).	

3. All initial positive results must be immediately reported, along with patient demographic information to the Genetic Diseases Office by FAX at (504) 568-7722 and followed up by the mailing of the information to the following address:

Genetic Diseases Program
P.O. Box 60630 - Room 308
New Orleans, Louisiana 70160

4. Guidelines and recommendations on quality assurance of newborn screening from nationally recognized committees and authors should be considered in the establishment and operation of a newborn screening system².

²References pertaining to Subsection G:

a. Committee on Genetics, American Academy of Pediatrics Issues in Newborn Screening. *Pediatrics* 1992; 89:345.

b. CORN Newborn Screening Committee, Council of Regional Networks for Genetic Services. U.S. Newborn Screening System Guidelines: Statement of the Council of Regional Networks for Genetic Services. *Screening*, 1 (1992 pp. 135-147).

c. Andrews L *Legal Liability and Quality Assurance in Newborn Screening*. Chicago, American Bar Foundation (1985), pp. 82-83.

d. National Committee for Clinical Laboratory Standards (NCLS) Standards for Blood Collection on Filter Paper for Neonatal Screening. Document LA4-A2 July 1992.

e. Committee on Assessing Genetic Risks, Division of Health Sciences Policy, Institute of Medicine *Assessing Genetic Risks* National Academy Press, Washington DC (1994).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5 and R.S. 40:1299 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:1130 (October 1992), LR 20: (December 1994).

Rose V. Forrest
Secretary

9412#042

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Disposition of Dead Human Bodies (Chapter XXVI)

Under the authority of R.S. 40:5, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, has amended Chapter XXVI, Section 26:003-2, of the *Sanitary Code*, in its entirety, to prohibit out-of-state transportation of dead human bodies more than 24 hours after death without prior embalming or cremation. This restriction is intended to prevent insanitary conditions from developing when dead human bodies are moved out-of-state.

Chapter XXVI

Burial, Transportation, Disinternment or Other Disposition of Dead Human Bodies

* * *

26:003-2 If the body is to be held longer than 30 hours without refrigeration as specified, it shall be embalmed in a manner approved by the Louisiana Board of Embalmers and Funeral Directors. If a dead human body is to be held longer than 30 hours in the custody of a Louisiana licensed hospital, Louisiana medical school, the Louisiana Anatomical Board or a coroner, it shall be refrigerated at all times at a temperature not to exceed 45 degrees fahrenheit prior to its release to a funeral director for final disposition. If a body is not refrigerated or embalmed, it shall be buried, cremated, or otherwise disposed of within 30 hours after death or as soon as possible after its release to the licensed funeral director. No one shall carry, transport or remove from within the confines of this state any dead human body more than 24 hours after death unless said body has been embalmed or cremated. Nothing in this section, however, shall be construed to prohibit transfer of an unembalmed dead human body which has been disposed of for the purpose of the advancement of medical science, or for use as "transplant" organs. Additionally, nothing in this section shall be construed to require embalming if special practices and beliefs of religious groups prohibit it.

Rose V. Forrest
Secretary

9412#044

RULE

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

Mental Health Rehabilitation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted a rule in the Medicaid Program 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.

The Bureau of Health Services Financing adopted a rule on the Mental Health Rehabilitation Program to incorporate the guidelines and interpretations of the Health Care Financing Administration on April 20, 1993. This rule was published in the *Louisiana Register*, Volume 19, No. 4. The rule establishes service limits for certain mental health rehabilitation services and revises the definition of treatment integration to ensure the inclusion of appropriate therapeutic principles and skills for this service component. This rule ensures the quality of these services to the target population.

The text of the rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Rose V. Forrest
Secretary

9412#054

RULE

Department of Insurance Commissioner of Insurance

Rule 9—Pre-licensing Education Requirements

The commissioner of insurance has amended and repromulgated Rule 9 which governs the pre-licensing education of insurance producers. The amendments include a clarification to Section I as regards the statutory authority for issuance of the regulation and the deletion of Section 14 relative to the expiration term of the regulation.

Rule 9—Pre-licensing Insurance Education Advisory Council

I. Purpose. The purpose of this rule is to implement Act 840 of the 1988 Regular Legislative Session by establishing curricula for courses of instruction required to be completed by applicants seeking insurance licenses in the state of Louisiana; to establish criteria for approval of providers of the courses of instruction; to establish a mechanism of examination and review of the performance and quality of the instruction.

II. Authority. This rule is issued pursuant to the authority vested in the commissioner of insurance, R.S. 22:1191, and the Administrative Procedure Act, R.S. 49:950 et seq.

III. Applicability and Scope. This rule shall apply to all applicants seeking a license as an insurance agent, broker or solicitor, who are required by statute to take an insurance examination. Further, this rule shall apply to the providers of the pre-licensing program and the instructors for said programs.

IV. Effective Date. The original effective date of this rule was July 1, 1989. The effective date of the repromulgated rule shall be December 20, 1994.

V. Course Requirements

A. Life, Health and Accident

1. All applicants for life, health and accident licenses as agent, broker or solicitor are hereby required to complete a course of instruction with a minimum of 16 hours of supervised instruction in a structured setting.

2. The curricula shall include the following:

- a. State Regulations
- b. Life Policy Provisions
- c. Whole Life, Term and Endowment Life
- d. Life Policy Options
- e. Annuity Contract Provisions
- f. Universal Life Insurance
- g. Credit Life
- h. Rate making and Reserves
- i. Interest Adjusted Cost Index
- j. Disability Income
- k. Accident and Health
- l. Medicare Supplement Insurance
- m. Ethical Practices

Insurance

B. Property and Casualty

1. All applicants for property and casualty licenses as agent, broker or solicitor are hereby required to complete a course of instruction with a minimum of 32 hours of supervised instruction in a structured setting.

2. The curricula shall include the following:

- a. General Insurance, Terms, Types and Definitions
- b. State Insurance Regulations
- c. The Law and Insurance
- d. Fire and Allied Lines
- e. General Liability
- f. Inland Marine and Ocean Marine
- g. Multi Line Policies
- h. Crime Insurance and Fidelity
- i. Automobile
- j. Surety Bonds
- k. Miscellaneous Coverage
- l. Workers' Compensation
- m. Risk Management
- n. Ethical Practices

3. Satisfactory Completion of the Instructional Program. Upon completion of the prescribed course of instruction, the applicant shall be tested by the provider of the program.

4. Exemptions. The requirement for the completion of the instructional course does not apply to any applicant who is exempt from the requirement of an examination under R.S.

22:1167 or any applicant seeking authorization to write industrial fire insurance business only.

5. Concurrent Instructional Courses. When concurrent instructional courses for both life, accident and health and property and casualty are conducted, the repetition of ethical practices and other topics which are redundant shall be waived. However, this does not reduce the minimum required hours of instructional training set forth by the statute.

VI. Provider Requirements

A. Applications for program approval shall be submitted through the Department of Insurance to the Louisiana Insurance Education Advisory Council not less than 60 days prior to the expected use of the program. Each instructional provider applicant shall provide the information set forth herein with its application in the format required by the commissioner as set forth herein.

1. Course outline including a list of resource material used, training aids to be used, detail description of the program, and cost of the program to participants.

2. Schedule of locations where the instructional course will be offered, and schedule of classes depicting time and dates. Any change in the schedule of locations, dates or time of classes shall be filed with the council no later than three days prior to scheduled beginning date.

3. Completion of Appendix 1 for the initial certification of director/supervising instructor to be used in accordance with the requirements and qualifications of instructors set forth herein.

4. Description and location of the facilities to be used in accordance with the requirements set forth herein.

B. Once approved, the provider shall maintain detailed attendance records for all students for all classes for three years following completion of the classes. The records may be reviewed by the commissioner and the council.

C. The provider shall not allow credit for required hours for any class work which is not conducted under the direct supervision of the course instructor at the approved facility during scheduled classes.

VII. Instructor Qualifications. For the purpose of this section, a distinction of types of providers must be acknowledged when prescribing the specific required qualifications for instructors.

A. An insurance trade association as recognized by the commissioner shall submit for approval the instructor who will be in a supervisory capacity. Said supervisory instructor shall provide the council with qualifications for instructors to be used during the tenure of the instructional course and shall assume the responsibility of assuring the quality of instructional course.

B. An insurance company admitted to do business in the state of Louisiana shall submit for approval the educational director holding educational responsibility for that company. Said director shall submit and have approved a supervisory instructor who may be delegated as the supervisory instructor in charge of the instructional course being given. Company personnel possessing expertise in specific areas of instructional topics will not have to be approved as an instructor. The director and/or supervising instructors holding educational responsibility for the company

shall be responsible for assuring the quality of the instructional course.

C. The instructor charged with the responsibility for the instructional course at an accredited public or private college or university shall require approval by the commissioner and the council based in part on the educational background of the instructor and the insurance experience said instructor may possess.

D. Other organizations recommended by the council and authorized by the commissioner shall have a supervising instructor certified and assigned the responsibility of conducting the instructional courses. The approved supervising instructor shall be responsible for any other instructor or guest instructor and shall be responsible for assuring the quality of the instructional course.

E. All instructors must possess the necessary qualifications to enable them to teach the program and to present the instructional material. Special consideration may be granted by the commissioner or the council with commissioner's approval where it is felt that the specific background of the instructor warrants such consideration. The qualifications for instructors shall include as a minimum the following:

1. For supervising instructors, five years of insurance and/or educational experience satisfactory to the commissioner and council.

2. Instructors will not be qualified who have received disciplinary action for insurance related practices by the Louisiana Insurance Department, the Insurance Department of another state, or any similar regulatory body or court.

The commissioner shall have the authority to waive this requirement after a public hearing to determine the applicant's qualifications has been held and findings of such hearing warrant such a waiver.

F. For all instructors, except those specified in Section B of this part, the supervising instructor shall submit a form Appendix 2 for each instructor who will participate in the instructional course.

VIII. Training Facility Requirements. The provider shall furnish training facility descriptions when applying to become an approved provider of an instructional program. Minimum acceptable training facility characteristics are:

A. an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting, proper furnishing;

B. the facility shall be easily accessible and secure for the safety of the student;

C. the instructional area of the facility should be for the exclusive use for the instructional course while in session;

D. readily accessible human needs should be considered when selecting a facility;

E. training aids, overhead viewing equipment availability and a proper visual layout of the classrooms should be addressed;

F. in the event that proper facilities are not available as previously described, the provider shall furnish specific description of the available facility for approval by the commissioner or the council.

IX. Licensing Procedure of Applicant. The commissioner, Insurance Department staff and the Insurance Education Advisory Council shall have the authority to visit a training facility and review the provider's program at any time. Said visits can include the review of curriculum records, review of attendance records, and observation of instructional sessions in progress, which must be accessible at all times during instructions.

X. Course Completion

A. The required instructional course must be completed prior to the applicant's taking the insurance licensing examination administered by the Insurance Department. The applicant must have successfully completed the instructional course no more than 12 months prior to taking the examination.

B. The supervising instructor of the designated official of the program provider shall provide an original list reflecting each individual who has successfully completed the required course and shall provide a certificate of successful completion to each participant. The list shall contain the name, address and Social Security number of all successful individuals and must be forwarded to the Department of Insurance within 15 working days of course completion.

XI. Fees. A certification fee of \$250 will be charged to each applicant seeking certification of a program of instruction qualify individuals to take an insurance agents licensing examination in the state of Louisiana. The commissioner of insurance may require the posting of a fidelity bond sufficient to safeguard the interests of consumers of this service, however in no event shall such bond exceed \$100,000.

XII. Complaints. The commissioner or the council at the direction of the commissioner shall review all complaints lodged against the provider or instructor of the program; and such complaints shall be lodged by a notarized affidavit of a student of said course. A hearing may be called for the purpose of investigating the complaint and/or taking necessary action to resolve the complaint. Any disciplinary action required shall be taken by the commissioner in accordance with Part 29 of the Louisiana Insurance Code, R.S. 22:1351-67.

XIII. Violations. Pursuant to the authority of the commissioner, the approval of a provider's program of instruction may be suspended or revoked for violation of the rule set forth herein and/or any pertinent provisions of the Louisiana Insurance Code, R.S. 22:1351-67.

XIV. Expiration Date

A. The rule set forth herein shall be reviewed by the Insurance Education Advisory Council every three years to determine if modifications to the rule are necessary.

B. In the event modification of this rule is thought to be necessary, a notice of a meeting to consider the modifications recommended by the Insurance Education Advisory Council shall be given in accordance with the provisions of R.S. 22:1354(C).

APPENDIX 1

PRE-LICENSING PROVIDER APPLICATION

TO: STATE OF LOUISIANA
COMMISSIONER OF INSURANCE
LICENSING DIVISION
P.O. BOX 94214
BATON ROUGE, LOUISIANA 70804-9214

APPLICATION FOR APPROVAL AS A PRE-LICENSING PROVIDER OF
INSURANCE COURSES PURSUANT TO ACT 840 OF THE 1988
REGULAR LEGISLATIVE SESSION.

NAME OF PROVIDER
ADDRESS
CONTACT PERSON
TELEPHONE NUMBER

(ATTACH THE ITEMS LISTED BELOW)

- 1) COURSE OUTLINE (GIVING TIME ALLOTTED TO EACH SUBJECT)
2) LIST OF RESOURCE MATERIAL
3) RESUME OF SUPERVISING INSTRUCTOR OR DIRECTOR
4) DESCRIPTION OF TRAINING FACILITIES TO BE USED
5) CLASS SCHEDULES AND LOCATIONS
6) COST TO PARTICIPATE

(PROVIDER)
(SIGNATURE OF PROVIDER REPRESENTATIVE)
(Date)

FOR DEPARTMENT USE ONLY
APPROVED BY: DATE
DISAPPROVED BY: DATE

APPENDIX 2

PRE-LICENSING INSTRUCTOR APPLICATION

APPLICATION FOR APPROVAL AS AN INSTRUCTOR OF
PRE-LICENSING INSURANCE COURSES PURSUANT TO ACT 840 OF
THE 1988 REGULAR LEGISLATIVE SESSION.

PROVIDER
INSTRUCTOR
ADDRESS
PHONE
OCCUPATION
QUALIFICATIONS

I have or have not received disciplinary action for insurance
related practices by the Louisiana Insurance Department, the Insurance
Department of another state, or any similar regulatory body or court.

SIGNATURE OF INSTRUCTOR
SIGNATURE OF SUPERVISING INSTRUCTOR

FOR DEPARTMENT USE ONLY
APPROVED BY: DATE
DISAPPROVED BY: DATE

James H. "Jim" Brown
Commissioner

9412#030

RULE

Department of Insurance
Commissioner of Insurance

Rule 10—Continuing Education

The commissioner of insurance hereby amends and
repromulgates Rule 10 which governs the continuing education
of insurance agents, brokers and solicitors. This amendment
affects Sections 10.3B, 10.4B, 10.4C, 10.6G, 10.15, and
10.17. The changes to Section 10.3 and 10.4C are
necessitated by changes in the law. The other amendments are
being done to clarify the rule.

10.1. Statutory Authority

The statutory authority for this regulation is Act 428 of the
1989 regular legislative session of the Louisiana legislature.
This rule is issued pursuant to the authority vested in the
commissioner of insurance, R.S. 22:1193, and the
Administrative Procedure Act, R.S. 49:950 et seq.

10.2 Purpose

The purpose of this regulation is to protect the public,
maintain high standards of professional competence in the
insurance industry, and maintain and improve the insurance
skills and knowledge of agents, brokers, and solicitors licensed
by the Department of Insurance. This shall be accomplished
by prescribing: minimum standards of education in approved
subjects that a licensee must periodically complete; procedures
and standards for the approval of such education; and a
procedure for establishing that continuing education
requirements have been met.

10.3 Basic Requirements

A. As a condition for the continuation of a license, a
licensee must furnish the Department of Insurance
(commissioner), prior to the licensing renewal date, proof of
satisfactory completion of approved subjects or courses having
the required minimum hours of continuing education credit
during each two-year licensing period.

- 1. Life-health license 16 hours
only
2. Property-casualty 24 hours
license only
3. Combination of both 12 hours life-health
P-C & L-H) licenses 20 hours property-casualty
4. Bail bond license 12 hours

B. Failure to fulfill the continuing education requirements
prior to the filing date for license renewal shall cause the
license to write insurance to lapse. For a period of two years
from the date of lapse of the license, the license may be
renewed upon proof of fulfilling all continuing education
requirements through the date of reinstatement and payment of
all fees due. If the license has lapsed for more than two
years, the license may be renewed only by fulfilling the
requirements for issuance of a new license. Any licensee who
fails to file timely for license renewal shall be charged a late
fee of \$25 in accordance with R.S. 22:1113(E)(3).

C. Property-casualty insurance agents shall complete 24
hours of approved instruction prior to each license renewal,
beginning with renewals effective in 1993. Life-health
insurance agents shall complete 16 hours of approved

instruction prior to each license renewal, beginning with renewals effective in 1994. Each course to be applied toward satisfaction of the continuing education requirement must have been completed within the two-year period immediately preceding renewal of the license; with the exception of up to 10 excess hours carried forward from the previous two-year renewal period which have not been used previously to comply with continuing education requirements.

D. Agents authorized to write both life-health and property-casualty insurance shall complete 20 hours of approved property-casualty instruction prior to each property-casualty license renewal beginning with renewals effective in 1993. These agents shall also complete 12 hours of approved life-health instruction prior to each life-health license renewal beginning with renewals effective in 1994. Each course to be applied toward satisfaction of the continuing education requirements must have been completed within the two-year period immediately preceding renewal of the license; with the exception of up to 10 excess hours carried forward from the previous two-year renewal period which have not been used previous to comply with continuing education requirements.

10.4 Applicability

A. This regulation applies to all resident agents, brokers, and solicitors licensed by the Department of Insurance. Further, this rule shall apply to the providers of continuing education programs and instructors for such programs.

B. This regulation applies to all nonresident agents, brokers and solicitors licensed by the Department of Insurance. However, nonresident licensees subject to continuing education requirements in their home state shall be exempt from this regulation.

C. This requirement for the completion of continuing education shall not apply to the following:

1. specialty classes of licenses including industrial fire, industrial life and health, credit life, credit health and accident, credit property, accidental death and dismemberment and/or vendor single interest which is written solely in connection with credit transactions, title, travel, baggage, fraternal, auto clubs, service or burial, and other limited licenses;

2. licensees that are at least 65 years of age and have a minimum of 15 years experience as an agent, broker or solicitor and are also either:

- a. retired or inactive and receive social security benefits; or

- b. only represent or operate through licensed domestic companies;

3. a new licensee who has completed an approved prelicensing education course is exempt from continuing education requirements under this rule for the first license renewal only. Thereafter the new licensee will be subject to all continuing education requirements.

D. The Department of Insurance anticipates and expects that licensees will maintain high standards of professionalism in selecting quality education programs to fulfill the continuing education requirements.

10.5 Insurance Education Advisory Council

A. The Insurance Education Advisory Council, comprised of representatives from each segment of the insurance

industry, shall be appointed by the commissioner of insurance to perform the following duties:

1. approve or disapprove programs as per the standards of this regulation and assign the number of continuing education hours to be awarded to programs that are approved.

2. consider applications for exceptions as permitted under rule of this regulation; and

3. consider other related matters as the commissioner may assign.

B. The Department of Insurance shall provide all members of the Insurance Education Advisory Council timely written notice of all council meetings. The members present at any meeting of the Insurance Education Advisory Council shall be deemed to be a quorum for purposes of acting to perform the duties of the council pursuant to this regulation. Matters before the Insurance Education Advisory Council may be decided by a majority of those members present. In the event of a tie vote, the chairman shall vote to break the tie.

C. Decisions or rulings of the Insurance Education Advisory Council in performance of the duties set forth herein shall have the effect of decisions or rulings of the Department of Insurance, but are subject to review and approval by the commissioner.

10.6 Program Requirements

A. All continuing education programs are subject to review and approval by the Insurance Education Advisory Council and certification by the commissioner. Each program must be submitted to the Insurance Education Advisory Council in accordance with this rule on forms promulgated by the commissioner (Appendix 1 to this regulation) not less than 60 days prior to the expected use of the program.

B. If a program is not approved in advance of presentation, a retroactive application for credit may be submitted to the Insurance Education Advisory Council within 60 days of completion of the course on forms promulgated by the commissioner (Appendix 1 to this regulation). All correspondence courses or individual study programs must be approved and certified in accordance with this rule prior to being offered to licensees for continuing education credit.

C. Any course which has not been approved by the Insurance Education Advisory Council and certified by the commissioner before the date on which it is to be presented shall not be represented or advertised on any manner as "approved" for continuing education credit.

D. Courses Which Qualify

1. A specific course will qualify as an acceptable continuing education program if it is a formal program of learning which contributes directly to the professional competence of a licensee. It will be left to each individual licensee to determine the course of study to be pursued. All programs must meet the standards outlined in the rule.

2. Subjects which Qualify

- a. The following general subjects are acceptable as long as they contribute to the knowledge and professional competence of an individual licensee as an agency, broker, or solicitor and demonstrate a direct and specific application to insurance:

- i. insurance and risk management;
- ii. insurance laws, regulations and ethics;

iii. courses in economics, business, management, computers, finance, taxes and laws which relate specifically to the insurance business.

b. Areas other than those listed above may be acceptable if the licensee can demonstrate that they have direct and specific application to insurance and contribute to professional competence and otherwise meet the standards set forth in this regulation. The responsibility for substantiating that a particular program meets the requirements of this regulation rests solely upon the licensee.

E. Courses Which Do Not Qualify

1. any course used to prepare for taking an insurance licensing examination;

2. general computer courses not specifically related to the insurance business;

3. motivation, psychology, communications or sales training courses;

4. general business courses not specifically related to the insurance business;

5. any program not directly and specifically applicable to the insurance business.

F. In order to qualify for credit, the following standards must be met by all continuing education courses:

1. Course Development

a. The program must have significant intellectual or practical content to enhance and improve the insurance knowledge and professional competence of participants.

b. The program must be developed by persons who are qualified in the subject matter and instructional design.

c. The program content must be current and up to date.

2. Course Presentation

a. Instructors must be qualified, both with respect to programs content and teaching methods. Instructors will be considered qualified if, through formal training or experience, they have obtained sufficient knowledge to instruct the course completely.

b. The number of participants and physical facilities must be consistent with the teaching method specified.

c. All programs must include some means for evaluating the quality of education provided.

G. Any provider organization intending to provide classes, seminars, or other forms of instruction as approved subjects shall apply for program approval on following forms promulgated by the commissioner for approval by the Insurance Education Advisory Council.

1. For the initial approval of a provider organization, Appendix 3 - Request For Provider Approval must be submitted with appropriate history and resume of the organization necessary to establish credibility as a CE provider. Appendix 3 also lists additional information which must be provided. The provider applicant must substantiate the experience and ability of the provider organization to provide quality CE programs.

2. Appendix 1 to this regulation - NAIC Request For Program/Course Approval.

3. Division A and B providers must furnish an outline of the subject matter to be covered with time specifications for presentation.

4. Division C, D, and E providers must furnish an actual copy of the student workbook and materials, along with time

specifications for presentation and a list of resource material used, training aids used, and the method of presentation.

a. If a provider submits a course with materials published by a recognized publisher of insurance education materials, each and every student must be provided with a complete original text from that publisher as part of the registration for the approved continuing education course. No substitute texts, outlines, summaries or copyright infringements will be allowed.

b. Proprietary student materials of the provider must be submitted to the Insurance Education Advisory Council for approval on their own merits and must not infringe on the copyright of existing materials.

5. If multiple presentations of a program will be made, an Appendix 2 - Training Schedule must be included. The outline shall include schedule and description of locations where the program will be offered including dates and times. Any change in this schedule of locations, dates or time of classes shall be filed with the Department of Insurance not less than three days prior to the scheduled beginning date.

6. Appendix 4 - Request for Instructor Approval along with resumes and qualifications of the instructors must be submitted in compliance with Section 10.8 of this rule.

7. Other information supporting the request for approval as outlined in this rule must be provided to the Insurance Education Advisory Council for consideration of the course approval. The submission must provide the council with sufficient information to substantiate that the course provides an appropriate subject matter, of sufficient degree of advanced study, with quality written student materials, and taught by quality experienced instructors.

H. The submission shall include a statement of the method used to determine whether there has been a positive achievement of education on the part of the agent being certified. Such method may be a written examination, a written report by the agent, certification by the providing organization of the agent's program attendance or completion, or other method approved by the council as appropriate for the subject.

I. Each course application shall be accompanied by a nonrefundable application fee of \$25.

J. Upon receipt of such material, the Insurance Education Advisory Council will approve or deny the course or program as qualifying for credit, indicate the number of hours that will be awarded for approved subjects, and refer the class, seminar, or program to the commissioner for his certification. In cases of denial, the Insurance Education Advisory Council shall furnish a written explanation of the reason for such action.

K. The department will provide, upon request, a list of all programs currently available which the Department of Insurance has certified.

L. Certification of a program may be effective for a period of time not to exceed three years or until such time as any material changes are made in the program, after this time the program must be recertified by the Insurance Education Advisory Council.

M. Licensees who attend programs that are not approved for CE credit because of a small attendance by Louisiana

licensees, may apply to the Insurance Education Advisory Council for individual approval of the course by complying with the standard submission procedures outlined in this rule and the payment of the \$25 submission fee.

10.7 Provider Requirements

A. All continuing education provider organizations are subject to review and approval by the Insurance Education Advisory Council and certification by the commissioner. CE providers must demonstrate their ability to provide quality education programs with appropriate subjects, quality student materials, and instructors with the knowledge, experience and teaching skills necessary to improve the professional level of licensees. Applications for provider approval shall be submitted through the Department of Insurance to the Louisiana Insurance Education Advisory Council not less than 60 days prior to the first submission for program approval. Each education provider applicant shall provide all necessary information in the format set forth in this rule. The provider application shall include:

1. a completed Appendix 3 - Request For Provider Approval with the additional information listed;
2. qualifications of the education provider organization including but not limited to the past experience of the provider in conducting insurance education programs, sufficient to establish that the organization will provide quality CE courses;
3. completion of Appendix 4 - Request for Instructor Approval and résumé in accordance with the requirements and qualifications of instructors set forth in this rule for the initial certification of the director/supervising instructor;
4. Administrative and Reporting Requirements Survey (Appendix 7) and supporting materials necessary to establish that the provider will comply with all reporting requirements of this rule and provide students with the administrative support necessary to comply with CE requirements;
5. the complete name, address, and description of the training facilities to be used sufficient to establish compliance with Section 10.9 of this rule requiring adequate facilities for proper training;
6. a schedule of registration fees and student costs to participate in programs;
7. program submission as outlined in Section 10.6 of this rule including but not limited to a complete copy of all student materials or course outline used, list of resource materials, detailed description of programs, detailed time distribution of presentation, resume and qualifications of specific instructors which will teach each program, and class schedules and locations. Refer to Section 10.6 for details.

B. Insurance agent, broker or solicitor organizations, their parent or subsidiary organizations will not be approved as a continuing education provider for the primary purpose of providing continuing education for their licensed employees.

C. Each provider application shall be accompanied by a nonrefundable application fee of \$250.

D. Once approved, the provider shall maintain detailed attendance records for all students for all classes for three years following completion of all classes. Records must be maintained in computer format compatible with Insurance Department specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the

Insurance Department. The provider must complete Appendix 7 - Administrative and Reporting Requirements Survey to establish these capabilities, and must work with Insurance Department computer personnel to maintain the required computer reporting records. The provider must also maintain a physical office facility adequate for the proper storage of records, and administrative staff necessary to facilitate the proper administration of CE requirements for student licensees. Provider records may be reviewed by the commissioner and the council.

E. The provider shall not allow credit for required hours for any work which is not conducted under the direct supervision of the course instructor at the approved facility during scheduled classes.

10.8 Instruction Requirements

A. Insurance trade associations, insurance companies, accredited public colleges and universities, and nationally recognized insurance professional designation programs as recognized by the commissioner (Division A and B providers) shall submit for approval the education director who will be certified to serve in a supervisory capacity. The education director shall be assigned the responsibility for verifying the qualifications of any other instructors used by the provider and shall be responsible for assuring the quality of all education courses.

B. Other organizations recommended by the council and authorized by the commissioner shall have an education director certified. The education director must submit a form Appendix 4 for each instructor who will participate in any course conducted by the provider. The Insurance Education Advisory Council must approve each instructor and course. The approved education director shall be responsible for any other instructor or guest instructor and shall be responsible for assuring the quality of all education courses.

C. All instructors must possess the necessary qualifications to enable them to teach the program and to present the instructional material. Special consideration may be granted by the commissioner or the council with the commissioner's approval where it is felt that the specific background of the instructor warrants such consideration. The qualifications for instructors shall include as a minimum the following:

1. for education directors and supervising instructors, five years of insurance and/or education experience satisfactory to the commissioner and council;
2. instructors will not be qualified who have received disciplinary action for insurance related practices by the Louisiana Insurance Department, the Insurance Department of another state, or any similar regulatory body or court;
3. expertise and experience in the specific subject area to be taught, professional designations or other credentials which indicate a technical mastery of the subject;
4. experience in teaching, instruction or public speaking which indicate an ability to present the subject matter.

D. The commissioner shall have the authority to waive this requirement after a public hearing to determine the applicant's qualifications has been held and findings of such hearing warrant such a waiver.

10.9 Training Facility Requirements

A. The provider shall furnish training facility descriptions when applying to become an approved provider of an instructional program. Minimum acceptable training facility characteristics must be maintained at all times.

B. An atmosphere conducive to the education presentation shall be maintained, including good housekeeping, controlled environment as to heating and cooling, proper lighting, and proper furnishings.

C. The facility shall be easily accessible and secure for the safety of the student.

D. The instructional area of the facility should be for the exclusive use for the instructional course while in session.

E. Readily accessible human needs should be considered when selecting a facility.

F. Training aids, overhead viewing equipment availability and a proper visual layout of the classrooms should be addresses.

G. In the event that proper facilities are not available as previously described, the provider shall furnish specific description of the available facility for approval by the commissioner or the council.

10.10 Measurement of Credit

A. Professional education courses shall be credited for continuing education purposes in full hours only. The number of hours shall be equivalent to the actual number of contact hours - number of hours in the classroom in instruction or participation. Each hourly period must include at least 50 minutes of continuous instruction or participation. For this purpose, a one-day program will be granted eight hours credit if the total lapsed time is approximately eight hours and the contact time is at least 400 minutes.

B. University or college upper division credit or noncredit courses shall be evaluated as follows: each semester system credit hour shall not exceed eight hours toward the requirement; each quarter system credit hour shall not exceed four hours. The final number of credits shall be determined by the Insurance Education Advisory Council.

C. Credit hours for individual study programs shall be determined by the Insurance Education Advisory Council. The council shall determine a reasonable number of CE credit hours which will be subject to a limitation that the licensee may only receive credit for a maximum of 50 percent of the required CE hours from individual study programs.

D. The total continuing education credit hours required for license renewal are limited by the following percentages for each of the following education divisions:

Continuing Education Credit Chart		
100%	Division A	National Professional Designations CPCU, CLU, ARM CHFC, CIC, etc.
100%	Division B	Agent Associations Colleges and Universities Insurance Companies
100%	Division C	Proprietary Schools
50%	Division D	Individual Study
25%	Division E	Miscellaneous General Interest Public Speaking General Interest Association Programs

E. Example of CONTINUING EDUCATION CREDIT CHART (Rule 10.10.D)

Single license property-casualty. Continuing education credit hours required: 24 CE hours Maximum CE hours for each division:

- A Division hours 24;
- B Division hours 24;
- C Division hours 24;
- D Division hours 12;
- E Division hours 4.

F. The number of continuing education credit hours will be limited to a maximum of eight hours per day of instruction. Continuing education credit hours will not be approved for programs conducted during meal functions unless the education presentation is completely separate from the meal function. The maximum number of continuing education credit hours which will be approved for any single course will be 24 credit hours for property-casualty courses and 16 credit hours for life-health courses.

G. Qualified continuing education programs earning a graduate level professional designation such as CPCU, CLU, CHFC, etc., will be subject to special rules as contained in this Paragraph. Qualified graduate level national designation programs which provide individual study courses shall be exempt from the requirement to pass an examination with a score of 70 percent or better to earn a certificate of completion, as outlined in Rule 10.13.B. Licensees which successfully pass a qualified graduate level national designation program examination shall earn 24 continuing education credit hours for property-casualty courses and 16 continuing education credit hours for life-health courses. Licensees which complete and fail a qualified graduate level national designation program examination shall earn 50 percent credit; 12 continuing education credit hours for property-casualty courses and eight continuing education credit hours for life-health courses.

10.11 Controls and Reporting

A. Upon completion of a class, program or course of study, the instructor or sponsoring organization shall, within 60 days of completion of the course, provide a certificate of

completion (Appendix 5 to this regulation) to each individual who satisfactorily completes the class, program or course of study. The certificate of completion shall bear the seal of the education provider organization. The provider must also maintain computer records of course completion in a format compatible with Insurance Department standards. Providers must report course completion records to the Insurance Department as requested.

B. Licensees must submit with the application for renewal of a license a signed continuing education statement, under oath, on a form prescribed by the department (Appendix 6 to this regulation), listing the courses that have been taken in compliance with this regulation.

C. The original certificates of completion for each educational program or course shall be retained by the licensee as evidence of completion of the program or course for the most recent two-year renewal period. The licensee shall provide the Department of Insurance with these original certificates as proof of completion upon request of a formal audit.

D. The continuing education statements submitted by licensees will be reviewed by the Department of Insurance and may be verified by a formal audit by the department. If a continuing education statement submitted by an applicant for license renewal, as required by this regulation, is not approved, the applicant shall be notified and administrative action shall be taken.

E. The responsibility for establishing that a particular course or other program for which credit is claimed is acceptable and meets the continuing education requirements set forth in this regulation rests solely on the licensee.

10.12 Program Review - Disciplinary Action

A. The commissioner, Insurance Department staff and the Insurance Education Advisory Council shall have the authority to visit a training facility and review the provider's program at any time. Said visits can include the review of curriculum records, review of attendance records, and observation of instructional sessions in progress, which must be accessible at all times during instruction.

B. The certificate of a provider or program may be suspended by the commissioner if he determines that:

1. the program teaching method or program content no longer meet the standards of this regulation, or have been significantly changed without notice to the commissioner for is recertification; or

2. the provider certified to the commissioner that an individual had completed the program in accordance with the standards furnished for certification or completion of the program, when in fact the individual has failed to do so; or

3. individuals who have satisfactorily completed the program of study in accordance with the standards furnished for certification or completion were not so certified by the provider or instructor; or

4. there is other good and just cause why certification should be suspended.

C. Suspension shall be subject to notice and hearing in accordance with Part 29 of the Louisiana Insurance Code, R.S. 22:1351-67.

D. Reinstatement of a suspended certification may be made upon the furnishing of proof satisfactory to the commissioner that the conditions responsible for the suspension have been corrected.

E. The commissioner or the council at the direction of the commissioner shall review all complaints lodged against a provider or instructor of a program. Such complaints shall be lodged by a notarized affidavit of a student of said course. A hearing may be called for the purpose of investigating the complaint and/or taking necessary action to resolve the complaint. Any disciplinary action required shall be taken by the commissioner in accordance with Part 20 of the Louisiana Insurance Code, R.S. 22:1351-67.

10.13 Credit for Individual Study Programs

A. Credit hours for individual study programs shall be determined by the Insurance Education Advisory Council. The council shall determine a reasonable number of CE credit hours which will be subject to a limitation that the licensee may only receive credit for a maximum of 50 percent of his required CE hours from individual study programs.

B. Qualified graduate level national designation programs shall be exempt from the requirement to pass an examination with a score of 70 percent or better to earn a certificate of completion as outlined in this Paragraph.

Refer to Rule 10.10.G for special rules applicable to these graduate level national programs.

C. Insurance companies admitted to do business in the state of Louisiana, insurance trade associations as recognized by the commissioner, and accredited public or private colleges or universities may be recognized as providers of independent study courses. Other organizations recommended by the council and authorized by the commissioner may be approved as providers of independent study courses if they meet one of the following qualifications:

1. five years or more experience as a recognized insurance education provider of independent study courses;

2. accreditation by a national education organization. All individual study program must be submitted for approval by the organization which complies or publishes the course materials. All individual study courses must be approved prior to being offered to licensees for continuing education credit. Any such course approval is not transferable to any other entity.

D. Continuing education credit for individual study programs must be applied to the current license renewal and may not be carried over to subsequent license renewals. No individual study program will be certified for more than 24 continuing education credit hours for property-casualty courses or 16 continuing credit hours for life-health courses.

E. Qualified individual study program providers (example: national publishing companies) may not contract their provider status to other CE providers. The integrity of materials and testing are the responsibility of the approved provider and must be maintained under their direct control. Local CE providers may act as vendors or marketing agents of approved individual study program providers as long as the provider controls the materials and testing.

10.14 Credit for Service as Instructor

A. One hour of continuing education credit will be awarded for each hour completed as an instructor or discussion leader, provided the class or program is certified by the commissioner and meets the continuing education requirements of those attending.

B. Credit for instruction will only be granted once for each course or program, not for successive presentation of the same course.

10.15 Effective Date

This regulation shall be effective December 20, 1994.

HISTORICAL NOTE: Promulgated by the Department of Insurance March 30, 1991.

10.16 Separability

If any provision of this regulation is for any reason held to be invalid, the remainder of the regulation shall not be affected thereby.

10.17 Expiration Date

A. The rule set forth herein shall be reviewed by the Insurance Education Advisory Council every three years to determine if modifications to the rule are necessary.

B. In the event modification of this rule is thought to be necessary, a notice of a meeting to consider the modifications recommended by the Insurance Education Advisory Council shall be given in accordance with the provisions of R.S. 22:1354(C).

Appendix 3

CONTINUING EDUCATION PROVIDER APPLICATION

TO: STATE OF LOUISIANA
COMMISSIONER OF INSURANCE
LICENSING DIVISION
P.O. BOX 94214
BATON ROUGE, LA 70804-9214

APPLICATION FOR APPROVAL AS A PROVIDER OF CONTINUING EDUCATION COURSES PURSUANT TO ACT 428 OR THE 1989 REGULAR LEGISLATIVE SESSION.

NAME OF PROVIDER _____
ADDRESS _____
CONTACT PERSON _____
TELEPHONE NUMBER _____

ATTACH THE FOLLOWING

1. COURSE OUTLINE (GIVING TIME ALLOTTED TO EACH SUBJECT)
2. LIST OF RESOURCE MATERIAL
3. RESUME OF SUPERVISING INSTRUCTOR OR DIRECTOR
4. DESCRIPTION OF TRAINING FACILITIES TO BE USED
5. CLASS SCHEDULES AND LOCATIONS
6. COST OF PARTICIPATION
7. APPENDIX 7 (ADMINISTRATIVE AND REPORTING REQUIREMENTS SURVEY)

(PROVIDER)

(SIGNATURE OF PROVIDER REPRESENTATIVE)

(DATE)

FOR DEPARTMENT USE ONLY

APPROVED BY: _____ DATE: _____
DISAPPROVED BY: _____ DATE: _____

Rev. 8/1/94

Appendix 2

CONTINUING EDUCATION PROVIDER TRAINING SCHEDULE

TRAINING PROVIDER

TRAINING LOCATION

TELEPHONE NUMBERS

INSTRUCTOR(S)

DATE TIME LOCATION

SIGNATURE OF SUPERVISING INSTRUCTOR

Rev. 8/1/94

Appendix 4

CONTINUING EDUCATION INSTRUCTOR APPLICATION

APPLICATION FOR APPROVAL AS AN INSTRUCTOR OF CONTINUING EDUCATION INSURANCE COURSES PURSUANT TO ACT 428 OF THE 1989 REGULAR LEGISLATIVE SESSION.

PROVIDER _____
 INSTRUCTOR _____
 ADDRESS _____
 TELEPHONE _____
 OCCUPATION _____

Qualifications _____

I have _____ or have not _____ received disciplinary action for insurance related practices by the Louisiana Insurance Department, the Insurance Department of another state, or any similar regulatory body or court.

 Signature of Instructor

 Signature of Supervising Instructor

FOR DEPARTMENT USE ONLY

APPROVED BY: _____ DATE: _____

DISAPPROVED BY: _____ DATE: _____

Rev. 8/1/94

Appendix 5

CONTINUING EDUCATION CERTIFICATE

This Certificate of Completion will be accepted as evidence that the person named herein has complied with the Continuing Education requirements mandated by the Department of Insurance in the state of

LOUISIANA

 Name of Education Provider

 Provider Authorization No.

_____ Name of Agent	_____ Agent License No.	_____ Social Security No.
_____ Course Title		_____ Course Number
_____ Course Completion Date		_____ Credit Hours Earned
_____ Signature of Authorized Instructor		_____ Date:
_____ Signature of Agent		_____ Date:

The Department of Insurance makes the agent responsible for using this certificate to meet state requirements.

ATTENTION: A copy of this Certificate must be filed with the Department of Insurance.

Rev. 8/1/94

Appendix 6

CONTINUING EDUCATION STATEMENT

I, hereby certify under penalty of perjury that I have completed the required number of hours for renewal of my license as required by Rule No. 10 of the Department of Insurance.

Course Title	Course No.	Completion Date	Education Provider	Hours Earned
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

ALL CREDITS MUST BE APPROVED BY THE LOUISIANA DEPARTMENT OF INSURANCE.

I, hereby certify that the information provided above, to the best of my knowledge, is complete and accurate and that I did in fact attend the above listed courses for the number of hours indicated.

DATED this ___ day of _____, 19 ___ .

(Signature)

(Name, Typed or Printed)

(Social Security Number)

(Agents License Number)

Rev. 8/1/94

Appendix 7

**LOUISIANA INSURANCE EDUCATION ADVISORY COUNCIL
CONTINUING EDUCATION PROVIDERS
ADMINISTRATIVE AND REPORTING REQUIREMENTS SURVEY**

PROVIDER NAME: _____

ADDRESS: _____

1. How long has the organization provided insurance continuing education?

Explain: _____

2. Staff Levels:

Please provide the following information for all staff (including administrative) involved with providing continuing education in Louisiana.

STAFF NAME	JOB DESCRIPTION POSITION	AVERAGE HOURS/WEEK CE LOUISIANA
_____	_____	_____

- _____
- _____
- _____
- _____
- _____

3. Do you have a commercial business location for transaction of business and record maintenance?

___ Yes ___ No Location: _____

4. Do you maintain student records on computer?

___ Yes ___ No

Type of System: _____

Signature: _____ Date: _____

Name: _____ Position: _____

Revised 8/1/94

James H. "Jim" Brown
Commissioner of Insurance

9412#031

RULE

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

Recertification of Cylinders; School Bus/Mass Transit
Fueling (LAC 55:IX.Chapters 1 and 12)
Repeal of LAC 55:IX.Chapters 3,5,7,9,11 and 13

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce rules and regulations, the commission has amended its rules and regulations.

The amended rule is necessary to ensure proper recertification of ICC and DOT cylinders and to provide updated regulations in accordance with national standards.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A. ...

1. Must deposit filing fee of \$100 for Class I and Class IV; \$50 for Class VI-X and \$25 for all others. This fee must accompany application.

* * *

6. ...

a. Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 1:315 (July 1975), amended LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20: (December 1994).

§113. Classes of Permits

A. ...

1. Class I. Holders of these permits may enter any phase of the L. P. Gas business.

* * *

g. ...

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the secretary of the Department of Revenue and

Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

* * *

m. No truck shall be parked on a street or highway at night in any city, town or village, except that it be for the purpose of serving a customer.

* * *

2. Class II. Holders of these permits may install, and service L. P. Gas containers, piping and appliances, but shall not deliver gas. This class will also apply to the installation and service of L. P. Gas containers, piping and appliances on mobile homes, motor homes, travel trailers or any other recreational vehicle.

* * *

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

* * *

3. Class III. Holders of these permits may sell, install and service L. P. Gas appliances with any auxiliary piping. They shall not deliver gas.

* * *

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

* * *

4. Class IV. Wholesalers - Holders of these permits may deliver, sell and transport L. P. Gas over the highways of the state but can deliver to dealers only; utilize aboveground steel storage and/or approved salt domes, shale and other underground caverns for storage of L. P. Gas; do general maintenance work on their own equipment using qualified personnel; but may not sell or install systems and appliances.

* * *

b. Must deposit filing fee of \$100 with application.

* * *

d. ...

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

5. Class V. Carburetion Permit - Holders of these permits may install equipment, including containers, and service L. P. Gas equipment used on internal combustion engines. They may not deliver L. P. Gas.

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

6. Class VI. Holders of these permits may engage in the filling of approved cylinders and motor fuel tanks with liquefied petroleum gas on their premises, but shall not deliver gas.

e. ...

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

7. Class VI-X. Holders of these permits may engage in the exchange of approved L. P. Gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

e. ...

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

8. Class VII. Holders of these permits may transport L. P. Gas by motor vehicle over the highways of the state of Louisiana but shall not sell product in the state. This permit may be secured from the office of the director upon receipt of the following:

c. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

i. No truck shall be parked on a street or highway at night in any city, town, or village, except that it be for the purpose of serving a customer.

10. Class VIII. Holders of these permits may: store, transport and sell L. P. Gas used solely in the cutting and metal working industry, sell and install piping and containers for those gases and engage in the filling of approved ICC or DOT containers used in the metal working industry.

c. ...

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

11. Class IX. Holders of these permits may inspect, re-certify and re-condition DOT and ICC cylinders. They shall not sell or deliver liquefied petroleum gas or anhydrous ammonia.

a. Must obtain verification from U.S. Department of Transportation of Retesters Identification Number.

b. Must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to the date of the commission meeting at which time the application is to be considered. Presence of the applicant (owner, manager or officer) is required at the commission meeting when the application is heard. In no case will the applicant's supplier be the authorized representative. Application forms will be furnished by the commission upon request. Retesters Identification Number and verification must be submitted with the application.

c. Must deposit filing fee of \$25 with application.

d. Must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- Products Property Damage Liability
- Products Public Liability

e. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

f. Person in charge of operations must be satisfactory to the commission and the director of the Liquefied Petroleum Gas Commission.

g. All personnel handling certification of cylinders must have a certificate of competency from the office of the director.

h. Must provide drawing and description of equipment to be installed to re-test cylinders. Drawing and description

must be submitted to the office of the director of the Liquefied Petroleum Gas Commission for his approval before installation.

i. Must maintain an accurate log of all cylinders that have been re-tested by date, size, manufacturer name, and serial number. The commission reserves the right to inspect such logs at any time through its representative.

j. Compliance with all other applicable rules and regulations will be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 20: (December 1994).

§137. Container Openings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, repealed by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

§153. Must Sell Only to Dealers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, amended LR 15:860 (October 1989), repealed LR 20: (December 1994).

§157. Report of Tanks Shipped

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), repealed LR 20: (December 1994).

§161. Manufacturer's Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:559 (May 1985), amended LR 15:861 (October 1989), repealed LR 20: (December 1994).

Subchapter E. Automatic Dispensers Used for Motor Fuel

§163. Automatic Dispensers Used for Motor Fuel

A. Automatic dispensers shall be permitted when an L.P. Gas dealer enters into a contractual arrangement with a

purchaser under a gas card-lock or other item or device to unlock or operate dispensing equipment for motor fuel when all requirements of this Section are met.

B. Automatic Dispensing Prohibited. The use of self service, coin operated, credit card or any other pump-activating automatic fuel dispensing device is prohibited at any retail station for use by the general public. The filling of ICC or DOT cylinders is prohibited.

C. Required Sketch. The location of any automatic dispensing unit shall be approved in writing by the director of the Liquefied Petroleum Gas Commission before the installation is made. Sketch must be submitted in triplicate to the office of the director. Sketch shall detail the area within 150 feet of the dispenser and the fuel storage container including distance to buildings, roads, streets, property lines, railways and other flammables and all details of the dispensing unit. After installation and before use, the installation must be inspected and approved for use by the commission before dispenser is placed in operation.

D. Installation of Automatic Dispenser. In addition to the regulations in this Section, the additional regulations apply:

1. No dispenser may be less than 15 feet from an L. P. Gas storage container.

2. All piping shall be schedule 80 and all pipe fittings shall be forged steel having a minimum design pressure of 2000 psi.

3. An excess flow valve shall be installed in the liquid and vapor piping in such a manner that displacement of the dispenser will result in the shearing of such piping on the downstream side of the excess flow valve.

4. Automatic dispensing system shall incorporate an emergency shut-off valve (ESV) upstream from the pump, installed in accordance with its manufacturer.

5. The transfer hose downstream from the meter shall incorporate a pull-away device.

6. Each automatic dispensing system shall include a switch which requires the operator's constant manual activation to maintain a fuel flow. Overriding of such switch is prohibited.

7. Step by step operating instructions and fire emergency telephone numbers shall be posted in a conspicuous place in the immediate vicinity of the automatic dispenser.

8. Immediate vicinity of automatic dispenser shall be well lit during all hours of darkness.

9. A dealer who installs an automatic dispenser shall provide contractual purchaser with written instructions to operate dispenser. The contractual purchaser should be cautioned to study and preserve such instructions and procedures, and to educate all those with access under his contract to the automatic dispenser in the proper operating procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

Subchapter F. Tank Trucks, Semi-Trailers and Trailers

§165. Meter Calibration

All trucks delivering L. P. Gas for domestic use shall be equipped with a suitable measuring device which shall be used

to accurately gauge the amount of gas placed in each system, either by meter or by weight.

Required meter calibration: Truck meters shall be calibrated at least once every two years or every 1 million gallons of gas delivered per truck, whichever occurs first. Calibration reports shall be retained in the dealer truck file for at least three years. A copy of the calibration report must be submitted to the office of the director of the Liquefied Petroleum Gas Commission. The commission reserves the right to review calibration reports upon demand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

§167. Out of Gas Customers

Serving an Out of Gas Customer. When a delivery of gas is made to any on-site container which is out of gas and which is connected to a fixed piping system serving any building, a warning tag shall be utilized if the L. P. Gas customer is not present. The service valve shall be closed and a warning tag shall be attached. An addition copy of the warning tag shall be placed on a door of the building.

The warning tag shall state:

- a. that gas supply has been turned off at the container;
- b. that your fuel supplier should be contacted if assistance is deemed necessary in relighting appliance pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

§169. Maintenance

A. All piping and auxiliary equipment shall be maintained in good mechanical condition at all times so as to eliminate in so far as possible all hazards to safe operation.

B. Vehicle and all components of vehicle shall be maintained in good mechanical condition at all times so as to eliminate in so far as possible all hazards to safe operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

Subchapter G. Systems Utilizing ASME Containers

§171. Storage Capacity Requirements

The minimum capacity of storage containers shall be 100 gallon tank capacity for each 100,000 BTU appliance load. Exceptions to this rule must be approved by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

§173. Regulators

All containers shall be equipped with an approved first-stage regulator installed as close to container as practicable and shall be located outside of building and be properly protected. A two-stage regulator must be installed if BTU load is 500,000 or more.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

§175. Pressure Tests Required

All new installations, existing installations, additions in piping to existing installations that a dealer will be serving with gas for the first time must be tested in the following manner:

1. All new installations as follows:

a. No underground piping shall be covered until after an inspection and test is made.

b. With openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss in pressure during test.

c. After appliances have been connected and adjusted, retest piping with water column of operating pressure. Turn off all appliance valves and turn gas off at tank. There shall be no loss in pressure in piping system during 15 minute test.

d. Search for leaks with approved leak detector solution. The use of matches or other flame is prohibited.

e. The commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission.

2. Existing installations being serviced with gas for the first time:

a. Visually inspect container, piping and appliances.

b. Test piping with water manometer or ounce gauge at operating pressure. Turn off appliance valves and turn off gas at tank. There shall be no loss in pressure in piping system during 15 minute test.

c. Search for leaks with approved leak detector solution. The use of matches or other flame is prohibited.

d. The commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission.

e. A pressure test is required at the location of an existing installation for a new customer in accordance with the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

§177. Appliance Installation and Connections

A. Use of Approved Applications. Domestic and commercial gas consuming appliances shall not be installed unless their correctness as to design, construction and performance is certified by one of the following:

1. determined by a nationally recognized testing agency adequately equipped and competent to perform such services and shall be evidenced by the attachment of its seal or label to such gas appliance. This agency shall be one which maintains a program of national inspection of production models of gas appliances at least once each year on the manufacturer's premises. Approval by the American Gas Association Laboratories (AGA) as evidenced by the attachment of its listing symbol or approval seal to gas appliances and a certificate or letter certifying approval under the

abovementioned requirements or listing by Underwriter's Laboratories Inc. (UL) be considered as constituting compliance with the provisions of this Section.

2. approved by the Liquefied Petroleum Gas Commission.

B. Appliance Installation and Connection

1. Appliances shall be installed in accordance with its manufacturer's instructions.

2. In the absence of complete manufacturer's instructions on installation of any appliance, installation shall be in accordance with National Fuel Gas Code Pamphlet Number 54. Exceptions as follows:

a. existing installation where piping outlets and appliances were installed in accordance with regulations which were in effect at the time of such installation. This exception includes the removal of existing appliances for servicing or replacement of appliance of same type or of equal or better quality;

b. exception approved by the director of the Liquefied Petroleum Gas Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

Subchapter H. Specifications for L. P. Gas Installations at Schools and Places of Public Assembly

§179. Requirements for Plans and Specifications

A. Three copies of all L. P. Gas installation plans and specifications including plot plans shall be submitted to the office of the director of the Liquefied Petroleum Gas Commission for approval before the job is begun.

B. Such plans must show the following:

1. the type of building (frame, masonry, metal walls, etc.);
2. elevation. This information should either be clearly shown on the sketch with an elevation view, or stated, giving the number of inches clearance between the ground and the building;
3. the size and location of all gas pipe and the length of all runs;
4. the size and location of the tank;
5. the location and BTU rating of all appliances;
6. the total BTU load;
7. all other details related to the proposed installation as required in this Section.

C. The following is a clarification of the requirements for the replacement of tanks at schools and places of public assembly: When replacement occurs where any additional piping or installation, or change of appliance occurs, it will be necessary to submit sketches in triplicate to the office of the director of this commission. Replacement of a storage container by a smaller or larger capacity container will require sketches and approval from this office. Replacement of a container of same capacity size at same location by same dealer, will not require a sketch. In cases which a sketch is not submitted, a letter stating appropriate information must be mailed to the office of the director of this commission. In all cases, an installation report, as required, must be filed with

this office. Under the "Remark" Section of the report give a description of the work being performed with reference to the above requirements.

D. The commission reserves the right to make a final inspection and witness a pressure test through an inspector of the Liquefied Petroleum Gas Commission before said tank is placed in operation.

E. The minimum capacity of storage containers shall be 100 gallons tank capacity per each 100,000 BTU appliance load. Exceptions to this rule must be approved by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Numbers 58 and 54

A. The Liquefied Petroleum Gas Commission hereby adopts the National Fuel Gas Code ANSI Z223.1 - 1992 and the National Fire Protection Association (NFPA) 54 - 1992 as adopted by the National Fire Protection Association on July 17, 1992 and approved by the American National Standards Institute, Inc. (ANSI) on August 28, 1992. The ANSI designation is Z223.1 - 1992. The NFPA designation is NFPA 54 - 1992 and also adoption of the National Fire Protection Association (NFPA) 58 - "Standard for the Storage and Handling of Liquefied Petroleum Gases" 1992 Edition, NFPA/ANSI 58, an American National Standard, February 10, 1992.

B. Any subsequent changes made to the abovementioned national standards shall become effective the date the standards are published.

C. Any published Liquefied Petroleum Gas Commission rules and regulations shall take precedence over the standards referenced in Subsection A.

D. The commission reserves the right to make an exception to any rule as it applies to local conditions as it deems necessary in the interest of public safety.

1. With regards to §2.6.6 Protective Coatings in NFPA 54 - 1992 and subsequent issues: Galvanized pipe and fittings and copper pipe and fittings may be used.

2. With regards to §3.1.2 Protection Against Damage in NFPA 54 - 1992 and subsequent issues: Pipe may be buried to the depth of the frost line and shall be protected against such mechanical injury where necessary.

3. With regards to §3.1.3 Protection Against Corrosion in NFPA 54 - 1992 and subsequent issues: This Section shall not apply when galvanized or copper pipe is used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

Chapter 3. Storage Containers

Repealed in its entirety.

Chapter 5. Tank Trucks, Semi-Trailers and Trailers

Repealed in its entirety.

Chapter 7. Cylinder Systems

Repealed in its entirety.

Chapter 9. Systems Utilizing ASME Containers

Repealed in its entirety.

Chapter 11. L. P. Gas as a Motor Fuel

Repealed in its entirety.

Chapter 12. School Bus and Mass Transit Installations

§1225. Fueling

A. Vehicles covered in this Chapter are prohibited from being fueled at schools, and other places of public assembly within 50 feet of the property line.

B. Vehicles are prohibited from being fueled while passengers are on board or while waiting to board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20: (December 1994).

Chapter 13. Specifications for L. P. Gas Installations at Schools and Places of Public Assembly

Repealed in its entirety.

G. L. "Mike" Manuel, Jr.
Director

9412#027

RULE

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

Plan Document—Durable Medical Equipment

In accordance with the applicable provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees has adopted the following rule relative to durable medical equipment.

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

Effective December 8, 1994, the plan document for the State Employees Group Benefits Program is amended in the following particulars:

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

****Additionally, benefits for durable medical equipment are also limited to the maximum benefit

reimbursement level established for certain articles of durable medical equipment by the Board of Trustees.

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

I. Definitions

* * *

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

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

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

I. Comprehensive Medical Benefits

* * *

F. Eligible Expenses

* * *

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

James R. Plaisance
Executive Director

9412#039

NOTICES OF INTENT

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Instructional Time

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, the following amendment to Bulletin 741, Louisiana Handbook for School Administrators.

Minimum Session/Instructional Day Standard 1.009.16

Insert as a second procedural block:

Effective with the 1995-96 school year, the length of the school year shall consist of 180 days of which no less than 175 days shall be student contact teaching days, or the equivalent; the remaining five days may be used for emergencies and/or other instructional activities.

Interested persons may submit comments on the proposed policy until 4:30 p.m., February 7, 1995 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94095, Baton Rouge, LA 70804-9064.

AUTHORITY NOTE: R.S. 17:7; 17:154(1).

Carole Wallin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Instructional Time

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to state or local governmental units is \$100 to update and disseminate the changes in Bulletin 741.

BESE estimated cost for printing this policy change and the first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$50. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9412#057

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1213—Minimum Standards for School Buses

The State Board of Elementary and Secondary Education, at its meeting of July 28, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved for advertisement, Bulletin 1213, Minimum Standards for School Buses in Louisiana, revised 1994. This bulletin is referenced in the Administrative Code, Title 28 as noted below.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §915. Bus Transportation Standards and Regulations

B. Bulletin 1213, Minimum Standards for School Buses in Louisiana, revised 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 21:

Copies of the complete document may be viewed at the Office of the State Register, located on the Fifth Floor of the Capitol Annex; in the State Department of Education; or in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, LA.

Interested persons may submit comments on the proposed policies until 4:30 p.m., February 7, 1995 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1213—Minimum Standards
for School Buses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated implementation cost to print 200 copies of the revised 1994 Minimum Standards for School Buses, Bulletin 1213 is \$525. BESE estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$70. Funds are available. The vendor may increase the price of the bus due to new minimum standards. Therefore, if the price of the bus goes up, there will be an increase in cost for school boards. This increase in cost will be included in the MFP for the following year and the state will pick up its two-thirds share.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated effect on revenue collections, after giving two copies to each school system, and selling the remaining and future copies at a rate of \$5 per copy, would be \$340 in FY 94-95.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Individual school bus operator, school personnel and parents may purchase this bulletin at a cost of \$5. Any vendor or manufacturer selling school transportation equipment that does not conform to all state and federal specifications shall be required to make necessary conversions to bring the vehicle into compliance. All costs related to such alterations shall be borne by the vendor. This policy only affects buses purchased after July 1, 1994 and excludes approximately 3,700 buses purchased before July 1, 1994 and the cost may be passed on to the purchaser of the school bus.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9412#058

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Commission on Occupational Education
(LAC 28:I.1515)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, a revision of its policy concerning accreditation of the technical institutes as stated below.

**Title 28
EDUCATION**

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

§1515. Commission on Occupational Education

All technical institutes under the jurisdiction of the Board of Elementary and Secondary Education are required to become affiliated with the Commission on Occupational Education or its successor and to work toward accreditation.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 21:

Interested persons may submit comments on this proposed policy until 4:30 p.m., February 7, 1995 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commission on Occupational Education**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$50. Funds are available.

There will be no cost to the State Department of Education. The only cost will be for the Board of Elementary and Secondary Education.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There will be no effect on costs 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 or employment.

Marlyn J. Langley
Deputy Superintendent
for Management and Finance
9412#056

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Medication Policy in Public Schools

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement, the Administration of Medication Policy developed by the State Board of Elementary and Secondary Education and the Louisiana State Board of Nursing and printed below:

Administration of Medication Policy Developed Jointly by State Board of Elementary and Secondary Education and

Louisiana State Board of Nursing

R.S. 17:436.1, Act 87 of 1993, requires that the State Board of Elementary and Secondary Education and the Louisiana State Board of Nursing formulate and adopt a joint policy on the administration of medications for local school systems that require unlicensed personnel to perform those functions. Each city and parish school board shall establish guidelines based upon the joint policy which shall include but not be limited to the following provisions.

Any waiver, deletions, additions, amendments, or alterations to the joint policy shall be approved by both boards.

I. Written Orders, Appropriate Containers, Labels and Information

A. Medication shall not be administered to any student without an order from a Louisiana licensed physician or dentist and it shall include the following information:

1. the student's name;
2. the name and signature of the physician/dentist;
3. physician/dentist's business address, office phone number, and emergency phone numbers;
4. the frequency and time of the medication;
5. the route and dosage of medication;
6. a written statement of the desired effects and the child specific potential adverse effects.

B. Medication shall be provided to the school by the parent or guardian in the container that meets acceptable pharmaceutical standards and shall include the following information:

1. name of pharmacy;
2. address and telephone number of pharmacy;
3. prescription number;
4. date dispensed;
5. name of student;
6. clear directions for use, including the route, frequency, and other as indicated;
7. drug name and strength;
8. last name and initial of pharmacist;
9. cautionary auxiliary labels, if applicable;
10. physician or dentist's name.

Labels of prepackaged medications, when dispensed, shall contain the following information in addition to the regular pharmacy label:

1. drug name
2. dosage form
3. strength
4. quantity
5. name of manufacturer and/or distributor
6. manufacturer's lot or batch number

II. Administration of Medication: General Provisions

A. During the period when the medication is administered the person administering medication shall be relieved of all other duties. This requirement does not include the observation period required in II.E. The local school systems shall determine how to implement this requirement.

B. Except in life threatening situations, trained unlicensed school employees may not administer injectable medications.

C. All medications shall be stored in a secured locked area or locked drawer with limited access except by authorized personnel.

D. Only oral, inhalant, topical ointment for diaper rash, and emergency medications shall be administered at school by unlicensed personnel.

E. Each student shall be observed by a school employee for a period of 45 minutes following the administration of medication. This observation may occur during instruction time.

F. School medication orders shall be limited to medications which cannot be administered before or after school hours.

III. Principal

The principal shall designate at least two employees to receive training and administer medications in each school.

IV. Teacher

The classroom teacher who is not otherwise previously contractually required shall not be assigned to administer medications to students. A teacher may request in writing to volunteer to administer medications to his/her own students. The administration of medications shall not be a condition of employment of teachers employed subsequent to July 1, 1994.

V. School Nurse

A. The school nurse, in collaboration with the principal, shall supervise the implementation of the school policies for the administration of medications in schools to insure the safety, health and welfare of the students.

B. The school nurse shall be responsible for the training of nonmedical personnel who have been designated by each principal to administer medications in each school. The training shall be at least six hours and include but not be limited to the following provisions:

- a. proper procedures for administration of medications including controlled substances;
- b. storage and disposal of medications;
- c. appropriate and correct record keeping;
- d. appropriate actions when unusual circumstances or medication reactions occur;
- e. appropriate use of resources.

VI. Parent/Guardian

A. The parent/guardian who wishes medication administered to his/her student shall provide the following:

1. a letter of request and authorization that contains the following information:

guidelines. These guidelines are available upon request in the State Board of Elementary and Secondary Education's office.]

Interested persons may submit comments on the proposed policy until 4:30 p.m., February 8, 1995 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

AUTHORITY NOTE: Promulgated in accordance with Act 87 of R.S. 1993 (R.S. 17:436.1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Administration of Medication
in Public Schools**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The economic impact to the State Department of Education is based on costs for printing and dissemination of 500 copies of the policy and the law to the superintendents and school nurses in each parish (LEA) at a cost of \$525.

The increased cost to each local governmental unit for this policy will vary. In school systems that have followed the *Louisiana Guidelines for School Health of 1983* and have previously employed school nurses to implement Act 735 of 1985 as well as Section 504 of the Rehabilitation Act of 1973 and P.L. 94-142 of 1975 (IDEA), minimal increase in expenditures will be required. Additional time will be required of the registered nurses to provide the required services. Nurses will spend more time on procedures related to medication. School systems may find it necessary to employ additional registered nurses, at the average annual salary of \$17,293.

Because the Minimum Foundation Program uses prior year expenditures in its calculation of the per pupil amount and then allocates 2/3 of the cost to the state and 1/3 of the cost to the school systems, increases in school system expenditures will, in the following year, be shared with the state.

It is unknown what effect the exclusion of teachers, unless they volunteer, from administering medication will have upon school systems.

BESE's estimated cost for printing this policy change and first page of fiscal and economic statement in the *Louisiana Register* is approximately \$400. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy is not expected to affect revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The number of students receiving medication while attending school is unknown. In a small sampling, a range of 25 students in one local education agency (LEA) to 10 percent of students in several schools in other LEAs are administered medication at school. As a result of this policy, it is expected that medication will be legally delegated, supervised, and administered in a safer manner, with reduced anxiety for all persons involved, including students, parents, physicians, employees, nurses and school

- a. name of the student,
- b. clear instructions,
- c. RX number, if any,
- d. current date,
- e. name, degree, frequency, and route of medication,
- f. name of physician or dentist,
- g. printed name and signature of parent or guardian,
- h. emergency phone number of parent or guardian,
- i. statement granting or withholding release of medical information;

2. written orders for all medications to be given at school, including annual renewals at the beginning of the school year;

3. a prescription for all medications to be administered at school, including medications that might ordinarily be available over the counter;

4. a list of all medications that the student is currently receiving at home and school, if that listing is not a violation of confidentiality or contrary to the request of the parent/guardian or student;

5. a list of names and telephone numbers of persons to be notified in case of medication emergency in addition to be the parent or guardian and licensed prescriber;

6. arrangements for the safe delivery of the medication to and from school in the original labeled container as dispensed by the pharmacist; the medication shall be delivered by a responsible adult;

7. unit dose packaging shall be used whenever possible.

B. All aerosol medications shall be delivered to the school in premeasured dosage.

C. No more than a 35-school day supply of medication shall be kept at school.

D. The initial dose of a medication shall be administered by the student's parent/guardian outside the school jurisdiction with sufficient time for observation for adverse reactions.

E. The parent/guardian shall also work with those personnel designated to administer medication as follows:

1. cooperate in counting the medication with the designated school personnel who receives it and sign a drug receipt form;

2. cooperate with school staff to provide for safe, appropriate administration of medications to students, such as positioning, and suggestions for liquids or foods to be given with the medication;

3. assist in the development of the emergency plan for each student;

4. comply with written and verbal communication regarding school policies;

5. grant permission for school nurse/physician consultation;

6. remove or give permission to destroy unused, contaminated, discontinued, or out-of-date medications according to the school guidelines.

VII. Student Confidentiality

All student information shall be kept confidential.

[Note of Information: This is not part of the joint policy: There is a set of guidelines which have been developed by an Administration of Medication Task Force and approved by the State Board of Nursing, which may be used by local school systems in developing their local administration of medication

boards. Although Act 87 of the 1993 Regular Legislative Session does not exclude any employee from being subject to administering medication provided certain conditions have been met, this policy excludes teachers unless they volunteer to administer medicine.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All LEAs, except one, have employed at least one registered nurse as required by Act 735 of 1985. In some school systems, private agencies have been contracted to provide health services.

Marlyn Langley
Deputy Superintendent
for Management and Finance
9412#055

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Proprietary School Commission**

General Policies and Surety Bond Claim Form

In accordance with R.S. 49:950, et seq, the Administrative Procedure Act, notice is hereby given that the Department of Education intends to amend Bulletin 1443, Advisory Commission on Proprietary Schools and Regulations as follows.

A. When an institution closes, and is domiciled within the state of Louisiana, the complete student records of the school shall be deposited with the superintendent. The records will be prepared in the following manner:

* * *

4. The institution must deliver the student records to the superintendent, or to a storage facility designated by the superintendent within 15 days following the date of institution closure.

5. Within 10 days following the institution's date of closure, the institution must deliver to the Advisory Commission on Proprietary Schools a printed list of active students, and students on leave, as of the date of the institution's closure, including each student's name, mailing address, telephone number, social security number, tuition paid to date, length of curriculum, and time needed to complete the curriculum.

6. Within 10 days following the institution's date of closure, the institution must deliver to the Advisory Commission on Proprietary Schools a printed list of all students, including current and former students, who are due a refund of part, or all, of any tuition payments. Such list shall include the student's name, mailing address, telephone number, social security number, amount of refund owed, and the name and address of the institution or person to whom the refund is payable. The list of refunds payable shall be signed and verified as correct by the chief financial administrator of the institution.

7. Within 10 days following the date of the institution's closure, the institution must deliver, by mail, notice of the institution's closure to all current students, both active students and students who are on leave. Such notice must include in

addition to the notice of closure, an explanation of options available to the students who wish to continue their education and options available for those students who wish to stop all of their education activities. Options shall include all information associated with tuition payments, refunds, and tuition claim procedures. A copy of each notice mailed to each student shall be delivered to the Advisory Commission on Proprietary Schools within 10 days following the institution's closure.

8. If a closed institution fails to comply with procedures set out in this Section, the institution is subject to fine of up to \$500 per day for each day of noncompliance, as determined by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary Schools Commission, LR 13:740 (December, 1987), amended LR 21:

Form Relating to Applications, License and Permits is amended by adding the following:

PSC-15

APPENDIX O

**SURETY BOND CLAIM FORM
STATE OF LOUISIANA
DEPARTMENT OF EDUCATION
PROPRIETARY SCHOOL COMMISSION
POST OFFICE BOX 94064
BATON ROUGE, LOUISIANA 70804-9064**

NOTE: The Surety Bond Claim Form must be submitted to the Advisory Commission on Proprietary Schools within one year following the date an institution closes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.

HISTORICAL NOTE: Promulgated by the Department of Education, Proprietary Schools Commission, LR 16:604 (July 1990), amended LR 21:

Interested persons may submit written comments to the following address: Andrew H. Gasperecz, Executive Secretary, Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, through February 2, 1995. He is the person responsible for responding to inquiries regarding this proposed rule.

Andrew H. Gasperecz
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General Policies and Surety Bond Claim Form**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

All costs of the Proprietary Schools Bureau are self-generated by license fees paid to the bureau by licensees. There will be an estimated cost of \$50 for printing and mailing of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

If a closed institution fails to comply with procedures set out in this amendment, the Proprietary Schools Commission's revenues may increase by \$500 each day that the institution is not in compliance, as determined by the commission. During

the past fiscal year, five schools closed. Under the proposed rule change, it is estimated the fines that would have been collected would be \$500.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

If a closed institution fails to comply with procedures set out in this amendment, the institution is subject to a fine of up to \$500 per day for each day of noncompliance, as determined by the commission. Collected fine monies will be used to help pay the cost of storing and retrieving records. The statement being added to the Surety Bond Claim Form will benefit a student of a closed propriety school by making the student aware of the deadline for submitting a claim against the closed institution's surety bond with the bureau.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Andrew H. Gasperecz
Executive Secretary
9412#052

David W. Hood
Senior Fiscal Analyst

James B. Thompson, III
Assistant Secretary

NOTICE OF INTENT

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

Division Source Test Manual (LAC 33:III.Chapter 60) (AQ80)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.Chapter 60, (AQ48).

The proposed rule is the state's adoption of existing federal sampling and analysis procedures into the Louisiana Administrative Code (LAC). The proposed rule describes the theory of sampling and analysis; and then it describes how the sampling and analysis is to be conducted, and the sensitivity of the analysis when conducted according to the procedure.

This action is required to maintain delegation of federal programs by adopting methods consistent with the federal regulations, in order to maintain consistency in state and federal methods.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on January 27, 1995, 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 Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, February 3, 1995,

at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486. Commentors should reference this proposed regulation by Log AQ48. Check or money order is required in advance for each copy of AQ48.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508 and also at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Division Source Test Manual

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The sampling and analysis procedures are required by the federal government and we currently monitor facilities for compliance with federal standards. There is no additional costs or savings to state or local governmental units for enforcement of this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The federal regulations currently require these procedures to be performed by the regulated community. The state needs to promulgate the same sampling and analysis procedure to ensure consistency with federal regulations. Because the regulated community must comply with federal regulations there is no anticipated effect on revenue collections for state or local governmental units. Failure to require identical procedures could cost the regulated community for complying to two standards.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated benefits to affected persons or nongovernmental groups is the consistency between the regulatory requirements of state and federal requirements for sampling and analysis. Failure to maintain consistency would cause additional expense in complying to two standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on either competition or employment from the promulgation of this rule.

Gus Von Bodungen
Assistant Secretary
9412#049

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Limiting VOC Emissions from Reactor Processes and Distillation Operation, Batch Processes and Cleanup Solvent Operations (LAC 33:III.Chapter 21) (AQ104)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 21, (AQ104).

These proposed additions to LAC 33:III.Chapter 21, relate to the reduction of volatile organic compound (VOC) emissions from: (1) reactor processes and distillation operations in the synthetic organic chemical manufacturing industry (SOCMI); (2) batch chemical processes; and (3) cleanup solvent operations. This is to be accomplished utilizing reasonably available control technology (RACT). It applies to sources located in ozone non-attainment parishes classified as marginal or above and that emit at least 50 tons per year of VOCs.

This action is required as a result of the Federal Clean Air Act Amendments (CAAA) of 1990, section 182(c) and by the directives of the United States Environmental Protection Agency (USEPA).

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations

§2147. Limiting VOC Emissions from Reactor Processes and Distillation Operations

A. Applicability

1. The provisions of this Subchapter apply to any vent stream originating from a process unit in which a reactor process or distillation operation is located. This Subchapter shall apply to the stationary sources that emit, or have the potential to emit, 50 tons per year or more of volatile organic compounds in the affected parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge. Once an operation is considered to be covered by this Subchapter, it shall be so considered ad infinitum. A decision tree is provided (Figure 1) to facilitate determination of applicability to this Subchapter on a per vent basis. The total resource effectiveness (TRE) index value may be applied on an individual process vent stream basis for a given process unit.

2. Exemptions from the provisions of this Subchapter are as follows:

a. any reactor process or distillation vent stream for which an existing combustion device is employed to control volatile organic compound (VOC) emissions is not required to meet the 98 percent destruction or 20 parts per million (ppm) by volume emissions limit until the combustion device is replaced for other reasons;

b. any reactor process or distillation operation that is designed and operated in a batch mode is not subject to the provisions of this Subchapter;

c. any reactor process or distillation operation that is part of a polymer manufacturing operation is not subject to the provisions of this Subchapter;

d. any reactor process or distillation operation operating in a process unit with a total design capacity of less than one gigagrams per year for all chemicals produced within that unit is not subject to the provisions of this Subchapter except for the reporting and recordkeeping requirements listed in Subsection F.4 of this Section; and

e. any vent stream for a reactor process or distillation operation with a flow rate of less than 0.0085 standard cubic meters per minute or a total VOC concentration of less than 500 ppm by volume is not subject to the provisions of this Subchapter except for the performance testing requirements listed in Subsection D.3.b and 9 of this Section and the reporting and recordkeeping requirements listed in Subsection F.3 of this Section.

B. Definitions. Unless specifically defined in LAC 33:III.111, the terms in this Subchapter shall have the meanings commonly used in the field of air pollution control. Additionally, the following meanings apply, unless the context clearly indicates otherwise.

Batch Mode—a noncontinuous operation in which a discrete quantity or batch of feed is charged into a process unit and distilled or reacted one time.

Boiler—any enclosed combustion device that extracts useful energy in the form of steam.

By Compound—by individual stream components, not carbon equivalents.

Continuous Recorder—a data recording device recording an instantaneous value at least once every 15 minutes.

Distillation Operation—an operation separating one or more feed streams into two or more exit streams, each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor phases as they approach equilibrium within the distillation unit.

Distillation Unit—a device or vessel in which distillation operations occur, including all associated internals (such as trays or packing) and accessories (such as reboiler, condenser, vacuum pump, steam jet, etc.), plus any associated recovery system.

Flame Zone—the portion of the combustion chamber in a boiler occupied by the flame envelope.

Flow Indicator—a device that indicates whether gas flow is present in a vent stream.

Halogenated Vent Stream—any vent stream containing a total concentration of halogen atoms (by volume) contained in halogenated organic compounds of 200 ppm by volume or greater determined by using LAC 33:III.6071 (Method 18) or other test or validated data by the United States Environmental Protection Agency's (EPA) Method 301 of 40 CFR part 63, appendix A, or by engineering assessment or process knowledge that no halogenated organic compounds are present. For example, 150 ppm by volume of ethylene dichloride would contain 300 ppm by volume of total halogen atoms.

Incinerator—any enclosed combustion device that is used for destroying organic compounds. Auxiliary fuel may be used to heat waste gas to combustion temperatures. Any energy recovery section present is not physically formed into one section; rather, the energy recovery system is a separate section following the combustion section and the two are joined by ducting or connections that carry fuel gas.

Primary Fuel—the fuel that provides the principal heat input to the device. To be considered primary, the fuel must be able to sustain operation without the addition of other fuels.

Process Heater—a device that transfers heat liberated by burning fuel to fluids contained in tubes, including all fluids except water that is heated to produce steam.

Process Unit—equipment assembled and connected by pipes or ducts to produce, as intermediates or final products, one or more synthetic organic chemical manufacturing industry (SOCMI) chemicals. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities.

Product—any compound or SOCMI chemical that is produced as that chemical for sale as a product, by-product, co-product or intermediate or for use in the production of other chemicals or compounds.

Reactor Processes—unit operations in which one or more chemicals or reactants other than air are combined or decomposed in such a way that their molecular structures are altered and one or more new organic compounds are formed.

Recovery Device—an individual unit of equipment, such as an absorber, carbon adsorber, or condenser, capable of and used for the purpose of recovering chemicals for use, reuse, or sale.

Recovery System—an individual recovery device or series of such devices applied to one vent stream.

Total Organic Compounds (TOC)—those compounds measured according to the procedures of LAC 33:III.6071 (Method 18), for the purpose of measuring molar composition as required in Subsection D.5.b of this Section, hourly emission rate as required in Subsection D.2 and 5.d of this Section, and TOC concentration as required in Subsection F.1.d and 2 of this Section. The definition of TOC excludes those compounds that the administrative authority* designates as having negligible photochemical reactivity. The administrative authority* has designated the following organic compounds as negligibly reactive: methane; ethane; 1,1,1-trichloroethane; methylene chloride; trichlorofluoromethane; dichlorodifluoromethane; chlorodifluoromethane; trifluoromethane; trichlorotrifluoroethane; dichlorotetrafluoroethane; and chloropentafluoroethane.

Total Resource Effectiveness (TRE) Index Value—a measure of the supplemental total resource requirement per unit reduction of organic hazardous air pollutants associated with a process vent stream, based on vent stream flow rate, emission rate of VOC, net heating value, and corrosion properties (whether or not the vent stream contains halogenated compounds) as quantified by the given equations. The TRE index is a decision tool used to determine if the annual cost of controlling a given vent stream is acceptable when considering the emissions reduction achieved.

Vent Stream—any gas stream discharged directly from a distillation operation or reactor process to the atmosphere or indirectly to the atmosphere after diversion through other process equipment. The vent stream excludes relief valve discharges and equipment leaks including, but not limited to, pumps, compressors, and valves.

C. Control Requirements

1. For individual vent streams within a process unit with a TRE index value less than or equal to 1.0, the owner or operator shall:

a. reduce emission of TOC (less methane and ethane) by 98 weight-percent or 20 ppm by volume, on a dry basis corrected to 3 percent oxygen, whichever is less stringent. If a boiler or process heater is used to comply with this Section, then the vent stream shall be introduced into the flame zone of the boiler or process heater; or

b. combust emissions in a flare. Flares used to comply with this Section shall comply with the requirements of LAC 33:III.3131. The flare operation requirement does not apply if a process vents an emergency relief discharge into a common flare header and causes the flare servicing the process to be out of compliance with one or more of the provisions of the flare operation rule.

2. For each individual vent stream within a process unit with a TRE index value greater than 1.0, the owner or operator shall maintain vent stream parameters that result in a calculated TRE index value greater than 1.0 without the use of a volatile organic compound control device. The TRE index shall be calculated at the outlet of the final recovery device.

D. Total Effectiveness Determination, Performance Testing, and Exemption Testing

1. For the purpose of demonstrating compliance with the TRE index value in Subsection C.2 of this Section, engineering assessment may be used to determine process vent stream flow rate, net heating value, and TOC emission rate for the representative operating condition expected to yield the lowest TRE index value.

a. If the TRE value calculated using such engineering assessment and the TRE equation in Subsection D.6 of this Section is greater than 4.0, then it is not recommended that the owner or operator perform the measures specified in Subsection D.5 of this Section.

b. If the TRE value calculated using such engineering assessment and the TRE equation in Subsection D.6 of this Section is less than or equal to 4.0, then it is recommended that the owner or operator perform the measurements specified in Subsection D.5 of this Section.

c. Engineering assessment includes, but is not limited to, the following:

i. previous test results that proved the test was representative of current operating practices at the process unit;

ii. bench-scale or pilot-scale test data representative of the process under representative operating conditions;

iii. maximum flow rate specified or implied within a permit limit applicable to the process vent;

iv. design analysis based on accepted chemical engineering principles, measured process parameters, or physical or chemical laws or properties. Examples for analytical methods include, but are not limited to:

(a). use of material balances based on process stoichiometry to estimate maximum VOC concentrations;

(b). estimation of maximum flow rate based on physical equipment design such as pump or blower capacities;

(c). estimation of TOC concentrations based on saturation conditions; or

(d). estimation of maximum expected net heating value based on the stream concentration of each organic compound or, alternatively, as if all TOC in the stream were the compound with the highest heating value; and

v. documentation of all data, assumptions, and procedures used in the engineering assessment.

2. For purposes of demonstrating compliance with the control requirements of this Subchapter, the process unit shall be run at representative operating conditions and flow rates during any performance test.

3. The following methods in LAC 33:III. Chapter 60 shall be used to demonstrate compliance with the emission limit or percent reduction efficiency requirement listed in Subsection C.1.a of this Section.

a. LAC 33:III.6001 (Method 1) or LAC 33:III.6002 (Method 1A), as appropriate, shall be used for selection of the sampling sites. The control device inlet sampling site for determination of vent stream molar composition or TOC (less methane and ethane) reduction efficiency shall be located after the last recovery device but prior to the inlet of the control device, prior to any dilution of the process vent stream, and prior to release to the atmosphere.

b. LAC 33:III.6003 (Method 2), LAC 33:III.6005 (Method 2A), LAC 33:III.6006 (Method 2C), or LAC 33:III.6008 (Method 2D), as appropriate, shall be used for determination of the gas stream volumetric flow rate.

c. The emission rate correction factor, integrated sampling and analysis procedure of LAC 33:III.6009 (Method 3) shall be used to determine the oxygen concentration (percent O_{2d}) for the purpose of determining compliance with the 20 ppm by volume limit. The sampling site shall be the same as that for the TOC samples, and samples shall be taken during the same time that the TOC samples are taken. The TOC concentration corrected to three percent oxygen (C_c) shall be computed using the following equation:

$$C_c = C_{TOC} \times \frac{17.9}{20.9 - \% O_{2d}}$$

where:

C_c = Concentration of TOC (minus methane and ethane) corrected to three percent O_2 , dry basis, ppm by volume.

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.

percent O_{2d} = Concentration of oxygen, dry basis, percent by volume.

d. LAC 33:III.6071 (Method 18) shall be used to determine the concentration of TOC (minus methane and ethane) at the outlet of the control device when determining compliance with the 20 ppm by volume limit, or at both the control device inlet and outlet when the reduction efficiency of the control device is to be determined.

i. The minimum sampling time for each run shall be one hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used then the samples shall be taken at 15-minute intervals.

ii. The emission reduction (R) of TOC (minus methane and ethane) shall be determined using the following equation:

$$R = \frac{E_i - E_o}{E_i} \times 100$$

where:

R = Emission reduction, percent by weight.

E_i = Mass rate of TOC (minus methane and ethane) entering the control device, kilogram TOC per hour.

E_o = Mass rate of TOC (minus methane and ethane) discharged to the atmosphere, kilogram TOC per hour.

iii. The mass rates of TOC (E_i , E_o) shall be computed using the following equations:

$$E_i = K_2 \left(\sum_{j=1}^n C_{ij} M_{ij} \right) Q_i$$

$$E_o = K_2 \left(\sum_{j=1}^n C_{oj} M_{oj} \right) Q_o$$

where:

C_{ij} , C_{oj} = Concentration of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, dry basis, ppm by volume.

M_{ij} , M_{oj} = Molecular weight of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, grams per gram-mole.

Q_i , Q_o = Flow rate of gas at the inlet and outlet of the control device, respectively, dry standard cubic meters per minute.

K_2 = 2.494×10^{-6} (liters per minute)(gram-mole per standard cubic meter) is 20°C .

iv. The TOC concentration (C_{TOC}) is the sum of the individual components and shall be computed for each run using the following equation:

$$C_{\text{TOC}} = \sum_{j=1}^n C_j$$

where:

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.

C_j = Concentration of sample component "j", dry basis, ppm by volume.

n = Number of components in the sample.

e. When a boiler or process heater with a design heat input capacity of 44 megawatts or greater, or a boiler or process heater into which the process stream is introduced with the primary fuel, is used to comply with the control requirements, an initial performance test is not required.

4. When a flare is used to comply with the control requirements of this Subchapter, the flare shall comply with the requirements of LAC 33:III.3131.

5. The following test methods shall be used to determine compliance with the TRE index value in Subsection C.1 or 2 of this Section.

a. LAC 33:III.6001 (Method 1) or LAC 33:III.6002 (Method 1A), as appropriate, shall be used for selection of the sampling site.

i. The sampling site for the vent stream molar composition determination and flow rate prescribed in Subsection D.5.b and c of this Section shall be, except for the situations outlined in Subsection D.5.a.ii of this Section, after the final recovery device, if a recovery system is present, prior to any post-reactor or post-distillation unit introduction of halogenated compounds into the process vent stream. No traverse site selection method is needed for vents smaller than 10 centimeters in diameter.

ii. If any gas stream other than the reactor or distillation vent stream is normally conducted through the final recovery device:

(a). the sampling site for the vent stream flow rate and molar composition shall be prior to the final recovery device and prior to the point at which any nonreactor or nondistillation stream or stream from a nonaffected reactor or distillation unit is introduced. Method 18 (LAC 33:III.6071) shall be used to measure organic compound concentrations at this site;

(b). the efficiency of the final recovery device is determined by measuring the organic compound concentrations using LAC 33:III.6071 (Method 18) at the inlet to the final recovery device after the introduction of all vent streams at the outlet of the final recovery device;

(c). the efficiency of the final recovery device according to Subsection D.5.a.ii.(b) of this Section shall be applied to the organic compound concentrations measured according to Subsection D.5.a.ii.(a) of this Section to determine the concentrations of organic compounds from the final recovery device attributable to the reactor or distillation vent stream. The resulting organic compound concentrations are then used to perform the calculations outlined in Subsection D.5.d of this Section.

b. The molar composition of the vent stream shall be determined as follows:

i. LAC 33:III.6071 (Method 18) shall be used to measure the concentration of organic compounds including those containing halogens.

ii. ASTM D1946-77 shall be used to measure the concentration of carbon monoxide and hydrogen.

iii. LAC 33:III.6013 (Method 4) shall be used to measure the content of water vapor.

c. The volumetric flow rate shall be determined using LAC 33:III.6003 (Method 2), LAC 33:III.6005 (Method 2A), LAC 33:III.6006 (Method 2C) or LAC 33:III.6008 (Method 2D), as appropriate.

d. The emission rate of TOC (minus methane and ethane) (E_{TOC}) in the vent stream shall be calculated using the following equation:

$$E_{\text{TOC}} = K_2 \sum_{j=1}^n C_j M_j Q_s$$

where:

E_{TOC} = Emission rate of TOC (minus methane and ethane) in the sample, kilograms per hour.

K_2 = Constant, 2.494×10^{-6} (liters per ppm) x (gram-moles per standard cubic meter [scm]) (kilograms per gram) (minutes per hour), where standard temperature for (gram-mole per scm) x (gram-mole per scm) is 20°C .

C_j = Concentration of sample component "j", on a dry basis, in ppm as measured by LAC 33:III.6071 (Method 18), as indicated in Subsection D.3.d of this Section.

M_j = Molecular weight of sample component "j", grams per gram-mole.

Q_s = Vent stream flow rate (scm per minute) at a temperature of 20°C .

e. The total process vent stream concentration (by volume) of compounds containing halogens (ppm by volume, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by LAC 33:III.6071 (Method 18).

f. The net heating value of the vent stream shall be calculated using the equation:

$$H_T = K_1 \sum_{j=1}^n C_j H_j (1 - B_{\text{ws}})$$

where:

H_T = net heating value of the sample (megajoules per standard cubic meter), where the net enthalpy per mole of vent stream is based on combustion at 25°C and 760 millimeters of mercury, but the standard temperature for determining the volume corresponding to one mole is 20°C , as in the definition of Q_s (vent stream flow rate).

K_1 = Constant, 1.740×10^{-7} (ppm)⁻¹ (gram-mole per standard cubic meter), (megajoules per kilocalorie), where standard temperature for (gram-mole per standard cubic meter) is 20°C .

B_{ws} = Water vapor content of the vent stream, proportion by volume; except that if the vent stream passes through a final stream jet and is not condensed, it shall be assumed that $B_{ws} = 0.023$ in order to correct 2.3 percent moisture.

C_j = Concentration on a dry basis of sample component "j" in parts per million, as measured for all organic compounds by LAC 33:III.6071 (Method 18) and measured for hydrogen and carbon monoxide by ASTM D1946-77.

H_j = Net heat of combustion of sample component "j", kilocalories per gram-mole, based on combustion at 25°C and 760 millimeters of mercury. The heats of combustion of vent stream components shall be determined using ASTM D2382-76 if published values are not available or cannot be calculated.

6. The TRE index value of the vent shall be calculated using the following equation:

$$TRE = \frac{1}{E_{TOC}} [a + b (Q_s) + c (H_T) + d (E_{TOC})]$$

where:

TRE = TRE index value.

E_{TOC} = Hourly emission rate of TOC (minus methane and ethane), kilograms per hour, as calculated in Subsection D.5.d of this Section.

Q_s = Vent stream flow rate standard cubic meters per minute at a standard temperature of 20°C.

H_T = Vent stream net heating value (megajoules per standard cubic meter), as calculated in Subsection D.5.f of this Section.

E_{TOC} = Hourly emission rate of TOC (minus methane and ethane), kilograms per hour, as calculated in Subsection D.5.d of this Section.

a,b,c,d = Coefficients presented in Table 1.

Type of Stream	Control Device Basis	Values of Coefficient			
		a	b	c	d
Nonhalogenated	Flare	2.129	0.183	-0.005	0.359
	Thermal incinerator 0 Percent heat Recovery	3.075	0.021	-0.037	0.018
	Thermal incinerator 70 Percent heat Recovery	3.803	0.032	-0.042	0.007
Halogenated	Thermal incinerator and scrubber	5.470	0.181	-0.040	0.004

a. The owner or operator of a vent stream shall use the applicable coefficients in Table 1 to calculate the TRE index value based on a flare, thermal incinerator with zero percent heat recovery, and a thermal incinerator with 70 percent heat recovery, and shall select the lowest TRE index value.

b. The owner or operator of a unit with a halogenated vent stream, determined as any stream with a total concentration of halogen atoms contained in organic compounds of 200 ppm by volume or greater, shall use the applicable coefficients in Table 1 to calculate the TRE index value based on a thermal incinerator and scrubber.

7. Each owner or operator of an affected facility seeking to comply with Subsection C.2 of this Section shall recalculate the flow rate and TOC concentration for that affected facility whenever process changes are made. Examples of process changes include changes in production capacity, feedstock type, or catalyst type or replacement, removal, or addition of recovery equipment. The flow rate and concentration shall be recalculated based on test data or on best engineering estimates of the effects of the change to the recovery system.

8. Where the recalculated values yield a TRE index value less than or equal to 1.0, the owner or operator shall notify the administrative authority* within one week of the recalculation and shall conduct a performance test according to the methods and procedures required by this Subsection.

9. The following procedures shall be used to demonstrate that a process vent stream has a VOC concentration below 500 ppm by volume.

a. The sampling site shall be selected as specified in Subsection D.3.a of this Section.

b. LAC 33:III.6071 (Method 18) or LAC 33:III.6086 (Method 25A) shall be used to measure concentration; alternatively, any other method or data that has been validated according to the protocol in EPA Method 301 of 40 CFR part 63, appendix A may be used.

c. Where LAC 33:III.6071 (Method 18) is used, the following procedures shall be used to calculate parts per million by volume concentration.

i. The minimum sampling time for each run shall be one hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15-minute intervals during the run.

ii. The concentration of TOC (minus methane and ethane) shall be calculated using LAC 33:III.6071 (Method 18) according to Subsection D.3.d of this Section.

d. Where LAC 33:III.6086 (Method 25A) is used, the following procedures shall be used to calculate parts per million by volume TOC concentration.

i. LAC 33:III.6086 (Method 25A) shall be used only if a single VOC is greater than 50 percent of total VOC, by volume, in the process.

ii. The process vent stream composition may be determined by either process knowledge, test data collected using an appropriate method previously promulgated, or a method of data collection validated according to the protocol in EPA Method 301 of 40 CFR part 63, appendix A. Examples of information that could constitute process knowledge include calculations based on material balances,

process stoichiometry, or previous test results provided the results are still relevant to the current process vent stream conditions.

iii. The VOC used as the calibration gas for LAC 33:III.6086 (Method 25A) shall be the single VOC present at greater than 50 percent of the total VOC by volume.

iv. The span value for LAC 33:III.6086 (Method 25A) shall be 50 ppm by volume.

v. Use of LAC 33:III.6086 (Method 25A) is acceptable if the response from the high level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

vi. The concentration of TOC shall be corrected to 3 percent oxygen using the procedures and equation in Subsection D.3.c of this Section.

e. The owner or operator shall demonstrate that the concentration of TOC including methane and ethane measured by LAC 33:III.6086 (Method 25A) is below 250 ppm by volume with VOC concentration below 500 ppm by volume to qualify for the low concentration exclusion.

E. Monitoring Requirements

1. The owner or operator of an affected facility that uses an incinerator to seek to comply with the TOC emission limit specified under Subsection C.1.a of this Section shall install, calibrate, maintain, and operate according to manufacturer's specifications, a temperature monitoring device equipped with a continuous recorder having an accuracy of $\pm 0.5^{\circ}\text{C}$, as follows:

a. where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the firebox;

b. where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

2. The owner or operator of an affected facility that uses a flare to seek to comply with Subsection C.1.b of this Section shall install, calibrate, maintain, and operate according to manufacturer's specifications, a heat-sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light to indicate the continuous presence of a flame.

3. The owner or operator of an affected facility that uses a boiler or process heater with a design heat capacity less than 44 megawatts to seek to comply with Subsection C.1.a of this Section shall install, calibrate, maintain, and operate according to the manufacturer's specifications, a temperature monitoring device in the firebox. The monitoring device should be equipped with a continuous recorder and have an accuracy of ± 1 percent of the temperature being measured expressed in degrees Celsius or $\pm 0.5^{\circ}\text{C}$, whichever is greater. Any boiler or process heater in which all vent streams are introduced with primary fuel is exempt from this requirement.

4. The owner or operator of an affected facility that seeks to demonstrate compliance with the TRE index limit specified under Subsection C.2 of this Section shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

a. where an absorber is the final recovery device in the recovery system:

i. a scrubbing liquid temperature monitor equipped with a continuous recorder; and

ii. a specific gravity monitor equipped with continuous recorders;

b. where a condenser is the final recovery device in the recovery system, a condenser exit (product side) temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or $\pm 0.5^{\circ}\text{C}$, whichever is greater;

c. where a carbon adsorber is the final recovery device unit in the recovery system, an integrating regeneration stream flow monitoring device having an accuracy of ± 10 percent, capable of recording the total regeneration stream mass flow for each regeneration cycle, and a carbon bed temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5 percent, capable of recording the carbon bed temperature after each regeneration and within 25 minutes of completing any cooling cycle.

d. where an absorber scrubs halogenated streams after an incinerator, reboiler, or process heater, the following monitoring equipment is required for the scrubber:

i. a pH monitoring device equipped with a continuous recorder; and

ii. flow meters equipped with continuous recorders to be located at the scrubber influent for liquid flow and the scrubber inlet for gas stream flow.

5. The owner or operator of a process vent using a vent system that contains bypass lines that could divert a vent stream away from the combustion device used shall either:

a. install, calibrate, maintain, and operate a flow indicator/recorder that provides a record of vent stream flow at least once every 15 minutes. The flow indicator shall be installed at the entrance to any bypass line that diverts the vent stream away from the combustion device to the atmosphere; or

b. secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once per month to ensure that the valve is maintained in the closed position and the vent stream is not diverted through the bypass line.

F. Reporting/Recordkeeping Requirements

1. Each reactor process or distillation operation subject to this Subchapter shall keep records of the following parameters measured during a performance test or TRE determination required under Subsection D of this Section and required to be monitored under Subsection E of this Section:

a. where an owner or operator subject to the provisions of this Subchapter seeks to demonstrate compliance with Subsection C.1.a of this Section through the use of either a thermal or catalytic incinerator:

i. the average firebox temperature of the incinerator (or the average temperature upstream and downstream of the catalyst bed for a catalytic incinerator), measured at least every 15 minutes and averaged over the same period as the performance testing; and

ii. the percent reduction of TOC determined as specified in Subsection D.3 of this Section achieved by the incinerator or concentration of TOC (parts per million by volume, by compound) determined as specified in Subsection D.3 of this Section at the outlet of the control device on a dry basis corrected to 3 percent oxygen;

b. where an owner or operator subject to the provisions of this Subchapter seeks to demonstrate compliance with Subsection C.1.a of this Section through the use of a boiler or process heater:

i. a description of the location at which the vent stream is introduced into the boiler or process heater; and

ii. the average combustion temperature of the boiler or process heater with a design heat input capacity of less than 44 megawatts measured at least every 15 minutes and averaged over the same time period as the performance testing;

iii. any boiler or process heater in which all vent streams are introduced with primary fuel are exempt from these requirements;

c. where an owner or operator subject to the provisions of this Subchapter seeks to demonstrate compliance with Subsection C.1.b of this Section through use of a smokeless flare, flare design (i.e., steam-assisted, air-assisted, or nonassisted), all visible emission readings, heat content determinations, flow measurements, and exit velocity determinations made during the performance test; continuous flare pilot flame monitoring, and all periods of operation during which the pilot flame is absent;

d. where an owner or operator subject to the provisions of this Subchapter seeks to demonstrate compliance with Subsection C.2 of this Section:

i. where an absorber is the final recovery device in the recovery system, the exit specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the administrative authority*) and average exit temperature of the absorbing liquid measured at least every 15 minutes and averaged over the same time period as the performance testing (both measured while the vent stream is normally routed and constituted); or

ii. where a condenser is the final recovery device in the recovery system, the average exit (product side) temperature measured at least every 15 minutes and averaged over the same time period as the performance testing while the vent stream is routed and constituted normally; or

iii. where a carbon adsorber is the final recovery device in the recovery system, the total stream mass or volumetric flow measured at least every 15 minutes and averaged over the same time period as the performance test (full carbon bed cycle), temperature of the carbon bed after regeneration and within 15 minutes of completion of any cooling cycle(s), and duration of the carbon bed steaming cycle (all measured while the vent stream is routed and constituted normally); or

iv. as an alternative to Subsection F.1.d.i, ii, or iii of this Section, the concentration level or reading indicated by the organics monitoring device at the outlet of the absorber, condenser, or carbon adsorber, measured at least every 15 minutes and averaged over the same time period as the

performance testing while the vent stream is normally routed and constituted; and

v. all measurements and calculations performed to determine the flow rate, volatile organic compound concentration, heating value, and TRE index value of the vent stream.

2. Each reactor process or distillation operation seeking to comply with Subsection C.2 of this Section shall also keep records of the following information:

a. any changes in production capacity, feedstock type, or catalyst type or of any replacement, removal, and addition of recovery equipment or reactors and distillation units;

b. any recalculation of the flow rate, TOC concentration or TRE value performed according to Subsection D.7 of this Section.

3. Each reactor process or distillation operation seeking to comply with the flow rate or concentration exemption level in Subsection A.2.e of this Section shall keep records to indicate that the stream flow is less than 0.0085 standard cubic meters per minute or the concentration is less than 500 ppm by volume.

4. Each reactor process or distillation operation seeking to comply with the production capacity exemption level in Subsection A.2.d of this Section of less than one gigagrams per year shall keep records of the design production capacity or any changes in equipment or process operation that may affect design production capacity of the affected process unit.

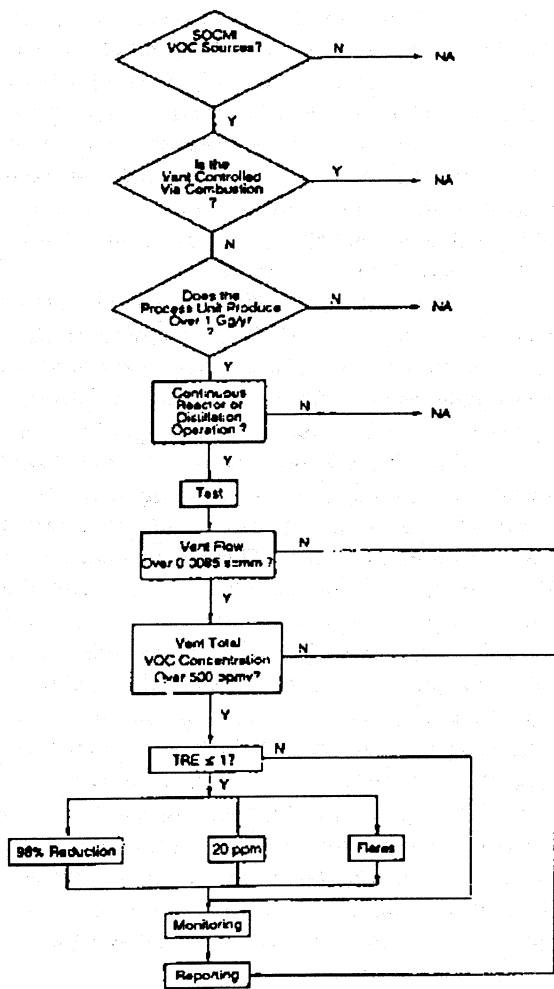


Figure 1. Synthetic organic chemical manufacturing industry reactor/distillation control techniques guideline logic diagram per vent.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:

Subchapter K. Limiting Volatile Organic Compound Emissions from Batch Processing

§2149. Limiting Volatile Organic Compound Emissions from Batch Processing

A. Applicability

1. The provisions of this Subchapter apply to process vents associated with batch processing operations. This Subchapter shall apply to the stationary sources that emit, or have the potential to emit, 50 tons per year or more of volatile organic compounds (VOCs) in the affected parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge. Once an operation is considered to be covered by this Subchapter, it shall be so considered ad infinitum. The scope of affected industries is limited to those industries in the following standard industrial classification (SIC) codes: 2821, 2833, 2834, 2861, 2865, 2869, 2879.

2. Exemptions from the provisions of this Subchapter, except for the reporting and recordkeeping requirements listed in Subsection G of this Section, are as follows:

a. combined vents from a batch process train which have a mass emission total of 10,000 lb/yr or less; and

b. single unit operations which have mass emissions of 500 lb/yr or less.

B. Definitions. Unless specifically defined in LAC 33:III.111, the terms in this Subchapter shall have the meanings commonly used in the field of air pollution control. Additionally, the following meanings apply, unless the context clearly indicates otherwise.

Aggregated—the summation of all process vents containing VOCs within a process.

Annual Mass Emissions Total—the sum of all emissions, evaluated before control, from a vent. Annual mass emissions may be calculated from an individual process vent or groups of process vents by using emission estimation equations contained in Chapter 3 of the United States Environmental Protection Agency's (EPA) Batch Control Technology Guide (CTG), EPA-433/19-93-017 (November 1993) and then multiplying by the expected duration and frequency of the emission or groups of emissions over the course of a year. For processes that have been permitted, the annual mass emissions total should be based on the permitted levels, whether they correspond to the maximum design production potential or to the actual annual production estimate.

Average Flow Rate—the flow rate averaged over the amount of time that VOCs are emitted during an emission event. For the evaluation of average flow rate from an aggregate of sources, the average flow rate is the weighted average of the average flow rates of the emission events and their annual venting time, or:

$$\text{Average Flow Rate} = \frac{\sum (\text{Average Flow Rate per emission event})(\text{annual duration of emission event})}{\sum (\text{annual duration of emission events})}$$

Batch—a discontinuous process involving the bulk movement of material through sequential manufacturing steps. Mass, temperature, concentration, and other properties of a system vary with time. Batch processes are typically characterized as "non-steady-state."

Batch Cycle—a manufacturing event of an intermediate or product from start to finish in a batch process.

Batch Process Train—an equipment train that is used to produce a product or intermediate. A typical equipment train consists of equipment used for the synthesis, mixing, and purification of a material.

Control Devices—air pollution abatement devices, not devices such as condensers operating under reflux conditions, which are required for processing.

Emissions Before Control—the emissions total prior to the application of a control device, or if no control device is used, the emissions total. No credit for discharge of VOCs into wastewater should be considered when the wastewater is further handled or processed with the potential for VOCs to be emitted to the atmosphere.

Emission Events—discrete venting episodes that may be associated with a single unit of operation. For example, a displacement of vapor resulting from the charging of a vessel with VOC will result in a discrete emission event that will last through the duration of the charge and will have an average flow rate equal to the rate of the charge. If the vessel is then heated, there will be another discrete emission event resulting

from the expulsion of expanded vessel vapor space. Both emission events may occur in the same vessel or unit operation.

Processes—(for the purpose of determining Reasonably Available Control Technology (RACT) applicability) any equipment within a contiguous area that is connected together during the course of a year where connected is defined as a link between equipment, whether it is physical, such as a pipe, or whether it is next in a series of steps from which material is transferred from one unit operation to another.

Semi-continuous—conduction of operations on a steady-state mode but only for finite durations during the course of a year. For example, a steady-state distillation operation that functions for one month would be considered semi-continuous.

Unit Operations—those discrete processing steps that occur within distinct equipment that are used to prepare reactants, facilitate reactions, separate and purify products, and recycle materials.

Vent—a point of emission from a unit operation. Typical process vents from batch processes include condenser vents, vacuum pumps, steam ejectors, and atmospheric vents from reactors and other process vessels. Vents also include relief valve discharges. Equipment exhaust systems that discharge from unit operations also would be considered process vents.

Volatility—low volatility materials are defined as those which have a vapor pressure less than or equal to 75 mm Hg at 20°C, moderate volatility materials have a vapor pressure greater than 75 and less than or equal to 150 mm Hg at 20°C, and high volatility materials have a vapor pressure greater than 150 mm Hg at 20°C. To evaluate VOC volatility for single unit operations that service numerous VOCs or for processes handling multiple VOCs, the weighted average volatility can be calculated simply from knowing the total amount of each VOC used in a year and the individual component vapor pressure, as shown in the following equation:

$$\text{Weighted Average Volatility} = \frac{\sum_{i=1}^n (\text{Vapor pressure of VOC component } i) \left(\frac{\text{mass of VOC component } i}{\text{molecular weight of VOC component } i} \right)}{\sum_{i=1}^n \left(\frac{\text{mass of VOC component } i}{\text{molecular weight of VOC component } i} \right)}$$

C. Control Requirements

1. Controls for individual process vents or for vent streams in aggregate within a batch process, having an actual average flow rate below the flow rate value calculated by the RACT equations when annual mass emissions (AE) are input, shall reduce emissions by 90 percent. The RACT equations, specific to volatility, are as follows:

FR = 0.07 (AE) - 1,821	(Low Volatility)
FR = 0.031 (AE) - 494	(Moderate Volatility)
FR = 0.013 (AE) - 301	(High Volatility)

2. For aggregate streams within a process, the control requirements must be evaluated with the successive ranking scheme described below until control of a segment of unit operations is required or until all unit operations have been eliminated from the process pool.

a. Sources that will be required to be controlled to the level specified by the RACT (90 percent) will have an average

flow rate that is below the flow rate specified by the RACT equation (when the source's annual emission total is input). The applicability criteria is implemented on a two-tier basis. First, single pieces of batch equipment corresponding to distance unit operations shall be evaluated over the course of an entire year, regardless of what materials are handled or what products are manufactured in them; second, equipment shall be evaluated as an aggregate if it can be linked together based on the definition of a process.

b. To determine applicability of a RACT option in the aggregation scenario, all the VOC emissions from a single process shall be summed to obtain the yearly emission total, and the weighted average flow rates from each process vent in the aggregation shall be used as the average flow rate.

c. All unit operations in the process, as defined for the purpose of determining RACT applicability, shall be ranked in ascending order according to their ratio of annual emission divided by average flow rate. This list of sources constitutes the "pool" of sources within a process. The annual emission total and average flow rate of the pool of sources shall then be compared against the RACT equations to determine whether control of the pool is required. If control is not required after the initial ranking, unit operations having the lowest annual emissions/average flow rates shall then be eliminated one by one, and the characteristics of annual emission and average flow rate for the pool of equipment will have to be evaluated with each successive elimination of a source from the pool. Control of the unit operations remaining in the pool to the specified level shall be required once the aggregated characteristics of annual emissions and average flow rates have met the specified cutoffs.

D. Measuring Emissions and Flow Rate

1. **Determination of Uncontrolled Annual Emission Total.** Determination of the annual mass emissions total may be achieved by engineering estimates of the uncontrolled emissions from a process vent or group of process vents within a batch process train and multiplying by the potential or permitted number of batch cycles per year. Engineering estimates should follow the guidance provided in the EPA Batch CTG. Alternatively, if an emissions measurement is to be used to measure vent emissions, the measurement must conform with the requirements of measuring incoming mass flow rate of VOCs as described in Subsection E.2.b and c.ii and iii of this Section.

2. **Determination of Average Flow Rate.** To obtain a value for average flow rate, the owners or operators may elect to measure the flow rates or to estimate the flow rates using suitable estimation methods (e.g., EPA document EPA-453/R4-93-017, November 1993). For existing manifolds, the average flow rate is often the flow that was assumed in the design. Regulators should be aware that oversized gas moving equipment used in manifolds may exempt many unit operations and batch processes from the RACT requirements because the flow rates will exceed those described by the RACT line equations. Industry should have the burden of proving that the manifold flow rates are consistent with emission sources and not oversized. If measurements are to be used to estimate flow rates, the measurements must conform with the

requirements of measuring incoming volumetric flow rate as described in Subsection E.2.b of this Section.

E. Performance Testing

1. For the purpose of demonstrating compliance with the control requirements of this Subchapter, the process unit shall be run at full operating conditions and flow rates during any performance test.

2. The following methods in LAC 33:III.Chapter 60, shall be used to comply with the percent reduction efficiency requirement listed in Subsection C of this Section.

a. LAC 33:III.6001 (Method 1) or 6002 (Method 1A), as appropriate, shall be used for selection of the sampling sites if the flow rate measuring device is a rotameter. No traverse is necessary when the flow measuring device is an ultrasonic probe. The control device inlet sampling sites for determination of vent stream VOC composition reduction efficiency shall be prior to the control device and after the control device.

b. LAC 33:III.6003 (Method 2), 6005 (Method 2A), 6006 (Method 2C), or 6008 (Method 2D), as appropriate, shall be used for determination of gas stream volumetric flow rate. Flow rate measurements should be made continuously.

c. LAC 33:III.6086 (Method 25A) or 6071 (Method 18), if applicable, shall be used to determine the concentration of VOC in the control device inlet and outlet.

i. The sampling time for each run will be the entire length of the batch cycle in which readings will be taken continuously if LAC 33:III.6086 (Method 25A) is used or as often as is possible using LAC 33:III.6071 (Method 18), with a maximum of one-minute intervals between measurements throughout the batch cycle.

ii. The emission rate of the process vent or inlet to the control device shall be determined by combining continuous concentration and flow rate measurements at simultaneous points throughout the batch cycle.

iii. The mass flow rate of the control device outlet shall be obtained by combining continuous concentration and flow rate measurements at simultaneous points throughout the batch cycle.

iv. The efficiency of the control device shall be determined by integrating the mass flow rates obtained in Subsection E.2.c.ii and iii of this Section over the time of the batch cycle and dividing the difference in inlet and outlet mass flow totals by the inlet mass flow total.

F. Monitoring Requirements

1. The owner or operator of an affected facility that uses an incinerator to seek to comply with the VOC emission limit specified under Subsection C of this Section shall install, calibrate, maintain, and operate according to manufacturer's specifications a temperature monitoring device equipped with a continuous recorder and having an accuracy of $\pm 0.5^{\circ}\text{C}$, as follows:

a. where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the firebox;

b. where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

2. The owner or operator of an affected facility that uses a flare to seek to comply with Subsection C of this Section shall install, calibrate, maintain, and operate according to manufacturer's specifications a heat sensing device, such as an ultra-violet beam sensor or thermocouple, at the pilot light to indicate continuous presence of a flame.

3. The owner or operator of an affected facility that uses an absorber to comply with Subsection C of this Section shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

a. a scrubbing liquid temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.02 of a specific gravity unit, each equipped with a continuous recorder; or

b. an organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infrared photoionization or thermal conductivity, each equipped with a continuous recorder.

4. The owner or operator of an affected facility that uses a condenser or refrigeration system to comply with Subsection C of this Section shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

a. a condenser exit temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or $\pm 0.5^{\circ}\text{C}$, whichever is greater; or

b. an organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infrared photoionization or thermal conductivity, each equipped with a continuous recorder.

5. The owner or operator of an affected facility that uses a carbon adsorber to comply with Subsection C of this Section shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

a. an integrating steam flow monitoring device having an accuracy of ± 10 percent and a carbon bed temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or $\pm 0.5^{\circ}\text{C}$, whichever is greater, both equipped with a continuous recorder; or

b. an organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infrared photoionization or thermal conductivity, each equipped with a continuous recorder.

G. Reporting/Recordkeeping Requirements

1. Each batch processing operation subject to this Subchapter shall keep records for a minimum of two years of the following emission stream parameters for each process vent contained in the batch process:

a. the annual mass emission total and documentation verifying these values; if emission estimation equations are used, the documentation shall be the calculations coupled with the expected or permitted (if available) number of emission events per year. If the annual mass emission total is obtained

b. the average flow rate in standard cubic feet per minute (scfm) and documentation verifying these values.

2. Each batch processing operation subject to this Subchapter shall keep records of the following parameters required to be measured during a performance test required under Subsection E of this Section and required to be monitored under Subsection F of this Section:

a. where an owner or operator subject to the provisions of this Section seeks to demonstrate compliance with Subsection C of this Section through use of either a thermal or catalytic incinerator, the average firebox temperature of the incinerator (or the average temperature upstream and downstream of the catalyst bed for a catalytic incinerator), measured continuously and averaged over the same time period as the performance testing;

b. where an owner or operator subject to the provisions of this Section seeks to demonstrate compliance with Subsection C of this Section through use of a smokeless flare, flare design, (i.e., steam-assisted, air-assisted or nonassisted), all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the performance test; continuous flare pilot flame monitoring; and all periods of operations during which the pilot flame is absent;

c. where an owner or operator subject to the provisions of this Section seeks to demonstrate compliance with Subsection C of this Section:

i. where an absorber is the final control device, the exit specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the administrative authority*) and average exit temperature of the absorbing liquid measured continuously and averaged over the same time period as the performance testing (both measured while the vent stream is routed normally); or

ii. where a condenser is the control device, the average exit (product side) temperature measured continuously and averaged over the same time period as the performance testing while the vent stream is routed normally; or

iii. where a carbon adsorber is the control device, the total steam mass flow measured continuously and averaged over the same time period as the performance test (full carbon bed cycle), temperature of the carbon bed after regeneration (and within 15 minutes of completion of any cooling cycle(s)), and duration of the carbon bed steaming cycle (all measured while the vent stream is routed normally); or

iv. the concentration level or reading indicated by an organic monitoring device at the outlet of the absorber, condenser, or carbon adsorber, measured continuously and averaged over the same time period as the performance testing while the vent stream is routed normally.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:

Subchapter L. Limiting Volatile Organic Compound Emissions from Cleanup Solvent Processing

§2151. Limiting Volatile Organic Compound Emissions from Cleanup Solvent Processing

A. Applicability and Designation of Affected Operations. The provisions of this Subchapter apply to the ensuing stationary sources that emit, or have the potential to emit, 50 tons per year or more of volatile organic compounds and conduct one or more of the following affected cleaning operations in the ozone nonattainment area consisting of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge. Once an operation is considered to be covered by this Subchapter, it shall be so considered ad infinitum. The affected cleaning operations are as follows:

1. spray gun cleaning, which includes spray guns, attached paint lines, and any other gun equipment used in applying a coating;

2. spray booth cleaning, which includes all interior surfaces of booths and all equipment within the booth such as conveyors, robots, etc.;

3. large manufactured components cleaning (i.e., the cleaning of large parts as a step in the manufacturing process), which includes large manufactured products, such as automobile bodies, furniture sheet metal, etc.;

4. equipment cleaning, which includes all production equipment that may be cleaned in place (not moved to a cleaning area) to prevent cross-contamination or merely for maintenance purposes. Examples are punch presses, electrical contacts on a major piece of equipment, pump parts, packaging equipment, rollers, ink pans, carts, press frames, and table tops;

5. floor cleaning, which includes floors in all production areas of a facility;

6. line cleaning, which includes lines that transport raw material (e.g., paint, resin, etc.) and that are cleaned separately from tanks, spray guns, and other process equipment. In some cases a small tank may be part of the system;

7. parts cleaning, which includes miscellaneous items that might be moved to dip into a container of solvent. Examples of parts include applicator tips, brushes, machine parts, pumps, circuit boards, truck parts, engine blocks, gauges, cutoff steel/machined parts, tool dies, motors and assemblies, screws, oil guns, welded parts, bearings, and filters;

8. tank cleaning, which includes mixing pots, process vessels, and tanks. In some instances, tank lines are cleaned in conjunction with the tanks and would be considered part of the system; and

9. small manufactured components cleaning (i.e., the cleaning of small parts as a step in the manufacturing process), which includes small manufactured products such as glass windows, engine components, subassemblies, sheet metal panels, molded parts, electrical contacts, steel and copper components, tin/silver-plated terminals, plastic parts, upholstered parts, circuit breaker cases, switch covers, and thread and bolts.

B. Definitions. Unless specifically defined in LAC 33:III.111, the terms in this Subchapter shall have the meanings commonly used in the field of air pollution control. variation in the type of unit operations from one industry to another. (See *Unit Operation System*.)

Additionally, the following meanings apply, unless the context clearly indicates otherwise.

Cleaning Activity—physical removal of foreign material from a substrate being cleaned. It includes such actions as wiping, brushing, flushing, or spraying.

Cleaning Classification—cleaning is considered to have three main classifications:

- a. cleaning of external surfaces;
- b. cleaning of interior surfaces (i.e., containers); and
- c. cleaning of removable parts.

Cleaning of External Surfaces—solvent is applied to the external surface being cleaned (as contrasted to the interior of tanks or pipes). Surfaces that fall within this classification include rollers in printing machines, wings of airplanes, floors, tables, and walls. The cleaning activities applied to the external surface may include wiping, brushing, mopping, or spraying.

Cleaning of Internal Surfaces/Containers—solvent is applied to an interior surface for cleaning. Surfaces may include the inside of tanks/vessels, batch reactors, columns, heat exchangers, paint spray booths, and fuel tanks. The cleaning activities applied may include flushing, agitation, spraying, mopping, or brushing. Any combination of activities may be used, depending upon the shape and size of the unit operation and upon the type of residue that is being removed.

Cleaning of Removable Parts—solvent engulfs the entire surface of the part as it is dipped into a container of solvent or the part is cleaned above the container by a cleaning activity such as spraying or wiping. Equipment or the unit operation where this might take place includes part washers, batch-loaded cold cleaners, ultrasonic cleaners, and spray gun washers.

Cleaning Practice—a repeated or customary action that is specific to an industry. An example is nightly maintenance of a spray booth in an automobile assembly plant.

Cleaning Tool—an item used to aid cleaning, such as a wiping rag, a brush, a scraper, or a water jet.

Closed-loop Recycling (In-process Recycling)—reuse or recirculation of a chemical material within the boundaries used to develop a material balance around a unit operation system. A recovery or regeneration (R and R) unit operation may be within the boundaries selected for the primary unit operation system if it is:

- a. solely dedicated. The chemical is reused only for cleaning the primary unit operation;
- b. physically integrated. The R and R unit operation is connected to the primary unit operation by means of piping, so that it is not possible to perform the material balance around the primary unit operation system without including it.

Hazardous Air Pollutant (HAP)—any of the substances identified in LAC 33:III.5115.

In-process Recycling—see *Closed-loop Recycling*.

Line Flushing—the procedure of completely cleaning out a large paint circulating system such as those found at auto assembly plants. The system includes the paint mix tanks and perhaps hundreds of feet of piping. This procedure is only necessary when a system is inadvertently contaminated or for a routine color change. (Although the system is essentially a closed loop, some losses can occur during the flushing; i.e.,

through various vents, from transfer operations, and from the paint mix tanks.)

Material Balance—the sum of all materials entering a system equated to the sum of all materials leaving the same system. Emissions from storage vessels shall be included.

Net Usage—the net usage (U) of solvent, in appropriate weight units, shall be calculated on a monthly basis as follows: opening solvent inventory (A), plus any estimated opening in-process solvent inventory (B), minus the closing solvent inventory (C), minus any closing in-process solvent inventory (D), minus the corrected waste solvent collected during the month, corrected by subtracting the amount of water and solid contaminants (W), i.e., $U = A + B - C - D - W$.

On-site Recycling—an R and R unit operation located within the plant boundaries from which waste solvent is returned to a process other than that which generated the waste solvent. A material balance for the R and R unit operation (distillation, filtration, etc.) shall be developed independently. (See *Storage Container*.)

Off-site Recycling—an R and R unit operation system located outside of the plant boundaries.

Pollution Prevention—practices or process changes that decrease or eliminate emissions (or wastes) at the source. Such prevention techniques include the use of new materials, modification of equipment, and changes in work practices.

Product Substitution—replacement of any product or raw material intended for an intermediate or final use, with another. This substitution is a source reduction activity if either the VOC emission or the quantity of waste generated is reduced.

Purging—the process wherein individual paint applicators and portions of paint delivery lines are emptied of one color paint, cleaned, and filled with another.

Reclaim—process or regenerate a material to recover a usable product. (See *Recycled*.)

Recovery or Regeneration (R and R) Unit Operation—a device for purifying solvent that may use any of a variety of techniques, including extraction, distillation, filtration, adsorption, or absorption.

Recycled—used, reused, or reclaimed. A material is used or reused if it is employed as an ingredient (including its use as an intermediate) to make a product; i.e., when solvent, recovered by distillation, is reused in the plant.

Reused—see *Used or Reused*.

Source Reduction—any activity or treatment that prevents, reduces, or eliminates the generation of VOC emissions (or waste), including product substitution.

Treatment—destruction or degradation of waste using techniques such as combustion or neutralization to produce material that is less toxic and more environmentally benign. (See *Recycled*.)

Unit Operation—an industrial operation classified or grouped according to its function in the operating environment. Examples include distillation columns, paint mixing vessels (tanks), spray booths, parts cleaners, and printing machines. A unit operation may consist of one or more items of equipment, e.g., both a reactor and a mixing vessel or several mixing vessels. There may be considerable from measurement in accordance with Subsection E of this Section, this data should be available;

Unit Operation System (UOS)—the ensemble of equipment around which a material balance is performed. A UOS includes all possible points/sources from which losses could occur to the atmosphere as a result of its being cleaned. This includes losses from solvent storage, during the dispensing of solvent, and from residual solvent on or in cleaning tools (such as rags). An item of equipment used for cleaning parts is, by definition, a unit operation. Therefore, carry-out losses during removal of cleaned parts is to be considered in a material balance.

Used or Reused—employed as an ingredient (including use as an intermediate) in an industrial process to make a product. (For example, in purifying a waste solvent, distillation bottoms from one column may be used as feedstock to another column.)

Volatile Organic Compound (VOC)—any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions unless such organic compound has been determined, by the administrative authority*, to have negligible photochemical reactivity.

Waste Minimization—the reduction, to the extent feasible, of hazardous waste that is generated or subsequently treated and stored. It includes any source reduction or recycling activity undertaken by a generator that results in either the reduction of total volume or quantity of hazardous waste, or both, so long as such reduction is consistent with the goal of minimizing present and future threats to human health and the environment. In order of preference waste minimization activities are: source reduction, recycling, and treatment.

Work Practice—specific human activities within industry that lead to a reduction in VOC emissions (or waste). The activities include increased operator training, management directives, segregation of the waste solvent, and practices that lead to a reduction in cleaning frequency. It does not include the use of specialized equipment, such as solvent dispensers.

C. Control Requirements. It is not feasible to mandate specific control techniques in the case of cleanup solvents. Therefore the administrative authority* shall require the affected facilities specified in Subsection A of this Section to implement the following actions, per EPA publication number EPA-453/R-94-015, February 1994:

1. conduct a short-term (in the order of three months) intensive study of solvent types and usage;
2. utilize accounting on a unit operation system;
3. submit plans to reduce solvent usage within 12 months after promulgation of these regulations.

D. Testing. ASTM Method D-4828, "Standard Test Method for Practical Washability of Organic Coatings," is a method adaptable for comparing the cleaning effectiveness of solvents and other cleaners. Modifications of this method may be approved by the administrative authority*.

E. Monitoring, Reporting, and Recordkeeping. Reporting and recordkeeping shall be used to monitor solvent use. Affected facilities shall calculate the net usage of solvents monthly and report the net usage annually. In addition, solvent reduction progress shall be reported annually, based on product output or other suitable basis approved 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 21:

A public hearing will be held on January 27, 1995, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, February 3, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486. Commentors should reference this proposed regulation by Log AQ104.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Limiting VOC Emissions from Reactor Processes and Distillation Operation, Batch Processes and Cleanup Solvent Operations

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings expected as a result of the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Promulgation of the proposed rule is not expected to have any effect on revenue collections by state or local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Reactor Processes and Distillation Operations—Average costs/benefits to directly affected industries are extremely difficult to estimate. Each affected stream must be calculated separately at the individual source.
Batch Processes—Estimated costs/benefits to directly affected persons or nongovernmental groups are very difficult to estimate. Each affected stream, too, must be estimated separately at the individual source.
Cleanup Solvent Operations—Any costs to directly affected facilities are expected to be minimal.
Any costs that accrue are a direct result of the federal Clean Air Act Amendments of 1990.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There isn't any expected effect on competition and employment from the implementation of the proposed rule amendments.

Gus Von Bodungen
Assistant Secretary
9412#061

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Standards of Performance for New Stationary Sources
(LAC 33:III.3261-3268) (AQ88)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 31, Subchapter J, (AQ88).

The proposed amendments to LAC 33:III.Chapter 31 are being submitted in order that the existing state regulations be brought up to date and be equivalent to the existing federal regulations.

This action is required as a result of United States Environmental Protection Agency directives.

These proposed 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 J. Standards of Performance for Petroleum Refineries (Subpart J)

§3261. Definitions

As used in this Subchapter, 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.

[See Prior Text]

Coke Burn-off—the coke removed from the surface of the fluid catalytic cracking unit catalyst by combustion in the catalyst regenerator. The rate of coke burn-off is calculated by the formula specified in LAC 33:III.3266.

Contact Material—any substance formulated to remove metals, sulfur, nitrogen, or any other contaminant from petroleum derivatives.

Fluid Catalytic Cracking Unit—a refinery process unit in which petroleum derivatives are continuously charged; hydrocarbon molecules in the presence of a catalyst suspended in a fluidized bed are fractured into smaller molecules or react with a contact material suspended in a fluidized bed to improve feedstock quality for additional processing; and the catalyst or contact material is continuously regenerated by burning off coke and other deposits. The unit includes the riser, reactor, regenerator, air blowers, spent catalyst or contact material stripper, catalyst or contact material recovery equipment, and regenerator equipment for controlling air pollutant emissions and for heat recovery.

Fluid Catalytic Cracking Unit Catalyst Regenerator—one or more regenerators (multiple regenerators) which comprise that portion of the fluid catalytic cracking unit in which coke burn-

off and catalyst or contact material regeneration occurs, and includes the regenerator combustion air blower(s).

Fresh Feed—any petroleum derivative feedstock stream charged directly into the riser or reactor or a fluid catalytic cracking unit except for petroleum derivatives recycled within the fluid catalytic cracking unit, fractionator, or gas recovery unit.

[See Prior Text]

Refinery Process Unit—any segment of the petroleum refinery in which a specific processing operation is conducted.

Valid Day—a 24-hour period in which at least 18 valid hours of data are obtained. A "valid hour" is one in which at least two valid data points are obtained.

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 21:

§3262. Standard for Particulate Matter

Each owner or operator of any fluid catalytic cracking unit catalyst regenerator that is subject to the requirements of this Subchapter shall comply with the emission limitations set forth in this Section on and after the date on which the initial performance test required by LAC 33:III.3115 is completed, but not later than 60 days after achieving the maximum production rate at which the fluid catalytic cracking unit catalyst regenerator will be operated or 180 days after initial start-up, whichever comes first.

A. No owner or operator subject to the provisions of this Subchapter shall discharge or cause the discharge into the atmosphere from any fluid catalytic cracking unit catalyst regenerator:

[See Prior Text in A.1-2]

B. Where the gases discharged by the fluid catalytic cracking unit catalyst regenerator pass through an incinerator or waste heat boiler in which auxiliary or supplemental liquid or solid fossil fuel is burned, particulate matter in excess of that permitted by Subsection A.1 of this Section may be emitted to the atmosphere, except that the incremental rate of particulate matter emissions shall not exceed 43.0 g/MJ (0.10 lb/million Btu) of heat input attributable to such liquid or solid fossil fuel.

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 21:

§3263. Standard for Carbon Monoxide

A. Each owner or operator of any fluid catalytic cracking unit catalyst regenerator that is subject to the requirements of this Subchapter shall comply with the emission limitations set forth in this Section on and after the date on which the initial performance test required by LAC 33:III.3115 is completed, but not later than 60 days after achieving the maximum

production rate at which the fluid catalytic cracking unit catalyst regenerator will be operated or 180 days after initial start-up, whichever comes first.

B. No owner or operator subject to the provisions of this Subchapter shall discharge or cause the discharge into the atmosphere from the fluid catalytic cracking unit catalyst regenerator any gases which contain carbon monoxide (CO) in excess of 500 ppm by volume (dry basis).

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 21:

§3264. Standard for Sulfur Oxides

A. Each owner or operator that is subject to the requirements of this Subchapter shall comply with the emission limitations set forth in this Section on and after the date on which the initial performance test required by LAC 33:III.3115 is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated or 180 days after initial start-up, whichever comes first.

B. No owner or operator subject to the provisions of this Subchapter shall:

1. burn in any fuel gas combustion device any fuel gas that contains hydrogen sulfide (H₂S) in excess of 230 mg/dscm (0.10 gr/dscf). The combustion in a flare of process upset gases or fuel gas which is released to the flare as the result of relief valve leakage or any other emergency malfunctions is exempt from this Paragraph; or

2. discharge or cause the discharge of any gases into the atmosphere from any Claus sulfur recovery plant containing in excess of:

a. for a reduction control system followed by incineration or an oxidation control system, 250 ppm by volume (dry basis) of sulfur dioxide (SO₂) at zero percent excess air; or

b. for a reduction control system not followed by incineration, 300 ppm by volume of reduced sulfur compounds and 10 ppm by volume of hydrogen sulfide (H₂S), each calculated as ppm SO₂ by volume (dry basis) at zero percent excess air.

C. Each owner or operator that is subject to the provisions of this Subchapter shall comply with one of the following conditions for each affected fluid catalytic cracking unit catalyst regenerator:

1. with an add-on control device reduce sulfur dioxide emissions to the atmosphere by 90 percent or maintain sulfur dioxide emissions to the atmosphere less than or equal to 50 ppm by volume (ppmv), whichever is less stringent; or

2. without the use of an add-on control device, maintain sulfur oxides emissions calculated as sulfur dioxide to the atmosphere less than or equal to 9.8 kg/1,000 kg coke burn-off; or

3. process in the fluid catalytic cracking unit fresh feed that has a total sulfur content no greater than 0.30 percent by weight.

D. Compliance with Subsection C.1, 2 or 3 of this Section is determined daily on a seven-day rolling average basis using the appropriate procedures outlined in LAC 33:III.3266.

E. A minimum of 22 valid days of data shall be obtained every 30 rolling successive calendar days when complying with Subsection C.1 of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and 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 21:

§3265. Monitoring of Emissions and Operations

A. Continuous monitoring systems shall be installed, calibrated, maintained, and operated by the owner or operator subject to the provisions of this Subchapter.

1. For fluid catalytic cracking unit catalyst regenerators subject to LAC 33:III.3262.A.2, an instrument for continuously monitoring and recording the opacity of emissions into the atmosphere shall be used. The instrument shall be spanned at 60, 70, or 80 percent opacity.

2. For fluid catalytic cracking unit catalyst regenerators subject to LAC 33:III.3263, an instrument for continuously monitoring and recording the concentration by volume (dry basis) of CO emissions into the atmosphere shall be used, except as provided in Subsection A.2.b of this Section.

a. The span value for this instrument is 1,000 ppm CO.

b. A CO continuous monitoring system need not be installed if the owner or operator demonstrates that the average CO emissions are less than 50 ppm (dry basis) and also files a written request for exemption with the administrative authority and receives such an exemption. The demonstration shall consist of continuously monitoring CO emissions for 30 days using an instrument that shall meet the requirements of Performance Specification 4 (LAC 33:III.6109). The span value shall be 100 ppm CO instead of 1,000 ppm, and the relative accuracy limit shall be 10 percent of the average CO emissions or 5 ppm CO, whichever is greater. For instruments that are identical to those used in Method 10 of 40 CFR part 60 and employ the sample conditioning system of Method 10A (LAC 33:III.6052), the alternative relative accuracy test procedure of Performance Specification 2 (LAC 33:III.6105.J.1) may be used in place of the relative accuracy test.

3. For fuel gas combustion devices subject to LAC 33:III.3264.B.1, an instrument for continuously monitoring and recording the concentration by volume (dry basis, zero percent excess air) of SO₂ emissions into the atmosphere shall be used except where an H₂S monitor is installed under Subsection A.4 of this Section. The monitor shall include an oxygen monitor for correcting the data for excess air.

a. The span values for these monitors are 50 ppm SO₂ and 10 percent oxygen (O₂).

b. The SO₂ monitoring level equivalent to the H₂S standard under LAC 33:III.3264.B.1 shall be 20 ppm (dry basis, zero percent excess air).

c. The performance evaluations for this SO₂ monitor under LAC 33:III.3125.C shall use Performance Specification

2 (LAC 33:III.6105). Methods 3 and 6 (LAC 33:III.6009 and 6025) shall be used for conducting the relative accuracy evaluations. Method 6 (LAC 33:III.6025) samples shall be taken at a flow rate of approximately two liters/minute for at least 30 minutes. The relative accuracy limit shall be 20 percent or 4 ppm, whichever is greater, and the calibration drift limit shall be five percent of the established span value.

d. Fuel gas combustion devices having a common source of fuel gas may be monitored at only one location (i.e., after one of the combustion devices), if monitoring at this location accurately represents the SO₂ emissions into the atmosphere from each of the combustion devices.

4. In place of the SO₂ monitor in Subsection A.3 of this Section, an instrument for continuously monitoring and recording the concentration (dry basis) of H₂S in fuel gases before being burned in any fuel gas combustion device shall be used.

a. The span value for this instrument is 425 mg/dscm H₂S.

b. Fuel gas combustion devices having a common source of fuel gas may be monitored at only one location, if monitoring at this location accurately represents the concentration of H₂S in the fuel gas being burned.

c. The performance evaluations for this H₂S monitor under LAC 33:III.3125.C shall use Performance Specification 7 of 40 CFR part 60, appendix B. Method 11 (LAC 33:III.6053) shall be used for conducting the relative accuracy evaluations.

5. For Claus sulfur recovery plants with oxidation control systems or reduction control systems followed by incineration subject to LAC 33:III.3264.B.2.a, an instrument for continuously monitoring and recording the concentration (dry basis, zero percent excess air) of SO₂ emissions into the atmosphere shall be used. The monitor shall include an oxygen monitor for correcting the data for excess air.

a. The span values for these monitors are 500 ppm SO₂ and 10 percent oxygen (O₂).

b. The performance evaluations for this SO₂ monitor under LAC 33:III.3125.C shall use Performance Specification 2 (LAC 33:III.6105). Method 3 and Method 6 (LAC 33:III.6009 and 6025) shall be used for conducting the relative accuracy evaluations.

6. For Claus sulfur recovery plants with reduction control systems not followed by incineration or oxidation control systems subject to LAC 33:III.3264.B.2.b, an instrument for continuously monitoring and recording the concentration of reduced sulfur and O₂ emissions into the atmosphere shall be used. The reduced sulfur emissions shall be calculated as SO₂ (dry basis, zero percent excess air).

a. The span values for these monitors are 450 ppm reduced sulfur and 10 percent O₂.

b. The performance evaluations for this reduced sulfur and oxygen (O₂) monitor under LAC 33:III.3125.C shall use Method 3B of 40 CFR part 60, except the calibration drift specification is 2.5 percent of the span value rather than five percent. When Method 15 (LAC 33:III.6063) or Method 15A of 40 CFR part 60, appendix A and Method 3 (LAC 33:III.6009) yields O₂ concentrations below 0.25 percent during the performance specification test, the O₂ concentration

may be assumed to be zero and the reduced sulfur CEMS need not include an O₂ monitor.

7. In place of the reduced sulfur monitor under Subsection A.6 of this Section, an instrument using an air or O₂ dilution and oxidation system to convert the reduced sulfur to SO₂ for continuously monitoring and recording the concentration (dry basis, zero percent excess air) of the resultant SO₂ shall be used. The monitor shall include an oxygen monitor for correcting the data for excess oxygen.

a. The span values for these monitors are 375 ppm SO₂ and 10 percent O₂.

b. For reporting purposes, the SO₂ exceedance level for this monitor is 250 ppm (dry basis, zero percent excess air).

c. The performance evaluations for this SO₂ (and O₂) monitor under LAC 33:III.3125.C shall use Method 3B of 40 CFR part 60. Method 15 (LAC 33:III.6063) or Method 15A of 40 CFR part 60 and Method 3 (LAC 33:III.6009) shall be used for conducting the relative accuracy evaluations.

8. If not complying with Subsection A.9 of this Section, an instrument for continuously monitoring and recording concentrations of sulfur dioxide in the gases at both the inlet and outlet of the sulfur dioxide control device from any fluid catalytic cracking unit catalyst regenerator for which the owner or operator seeks to comply with LAC 33:III.3264.C.1 shall be used. The span value of the inlet monitor shall be set at 125 percent of the maximum estimated hourly potential sulfur dioxide emission concentration entering the control device, and the span value of the outlet monitor shall be set at 50 percent of the maximum estimated hourly potential sulfur dioxide emission concentration entering the control device.

9. An instrument for continuously monitoring and recording concentrations of sulfur dioxide in the gases discharged into the atmosphere from any fluid catalytic cracking unit catalyst regenerator for which the owner or operator seeks to comply specifically with the 50 ppmv emission limit under LAC 33:III.3264.C.1 shall be used. The span value of the monitor shall be set at 50 percent of the maximum hourly potential sulfur dioxide emission concentration entering the control device.

10. An instrument for continuously monitoring and recording concentrations of oxygen (O₂) in the gases at both the inlet and outlet of the sulfur dioxide control device (or the outlet only if specifically complying with the 50 ppmv standard) from any fluid catalytic cracking unit catalyst regenerator for which the owner or operator has elected to comply with LAC 33:III.3264.C.1 shall be used. The span of this continuously monitoring system shall be set at 10 percent oxygen (O₂).

11. The continuous monitoring systems under Subsection A.8, 9, and 10 of this Section shall be operated and data recorded during all periods of operation of the affected facility including periods of start-up, shutdown, or malfunction, except for continuous monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments.

12. The owner or operator shall follow Procedure 1 (LAC 33:III.6401), including quarterly accuracy determinations and daily calibration drift tests, for the

continuous monitoring systems under Subsection A.8, 9, and 10 of this Section.

13. When seeking to comply with LAC 33:III.3264.C.1, when emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks, or zero and span adjustments, emission data will be obtained by using one of the following methods to provide emission data for a minimum of 18 hours per day in at least 22 out of 30 rolling successive calendar days:

- a. the test methods as described in LAC 33:III.3266.K;
- b. a spare continuous monitoring system; or
- c. other monitoring systems as approved by the administrative authority.

B. Reserved.

C. The average coke burn-off rate (thousands of kilogram/hr) and hours of operation for any fluid catalytic cracking unit catalyst regenerator subject to LAC 33:III.3262, 3263, or 3264.B.2 shall be recorded daily.

[See Prior Text in D]

E. For the purpose of reports under LAC 33:III.3113.C, periods of excess emissions that shall be determined and reported are defined as follows: Note: All averages, except for opacity, shall be determined as the arithmetic average of the applicable one-hour averages, e.g., the rolling three-hour average shall be determined as the arithmetic average of three contiguous one-hour averages.

1. for opacity, all one-hour periods which contain two or more six-minute periods during which the average opacity as measured by the continuous monitoring system under Subsection A.1 of this Section exceeds 30 percent;

2. for carbon monoxide, all hourly periods during which the average CO concentration as measured by the CO continuous monitoring system under Subsection A.2 of this Section exceeds 500 ppm;

3. for sulfur dioxide from fuel gas combustion:

- a. all rolling three-hour periods during which the average concentration of SO₂ as measured by the SO₂ continuous monitoring system under Subsection A.3 of this Section exceeds 20 ppm (dry basis, zero percent excess air); or

- b. all rolling three-hour periods during which the average concentration of H₂S continuous monitoring system under Subsection A.4 of this Section exceeds 230 mg/dscm (0.10 gr/dscf);

4. for sulfur dioxide from Claus sulfur recovery plants:

- a. all 12-hour periods during which the average concentration of SO₂ as measured by the SO₂ continuous monitoring system under Subsection A.5 of this Section exceeds 250 ppm (dry basis, zero percent excess air); or

- b. all 12-hour periods during which the average concentration of reduced sulfur (as SO₂) as measured by the SO₂ reduced sulfur continuous monitoring system under Subsection A.6 of this Section exceeds 300 ppm; or

- c. all 12-hour periods during which the average concentration of SO₂ as measured by the SO₂ continuous monitoring system under Subsection A.7 of this Section exceeds 250 ppm (dry basis, zero percent excess air).

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 21:

§3266. Test Methods and Procedures

A. In conducting the performance tests required in LAC 33:III.3115, the owner or operator shall use as reference methods and procedures the test methods in LAC 33:III.Chapter 60 or other methods and procedures as specified in this Section, except as provided in LAC 33:III.3115.B.

B. The owner or operator shall determine compliance with the particulate matter (PM) standards in LAC 33:III.3262.A as follows:

1. The emission rate (E) of PM shall be computed for each run using the following equation:

$$E = \frac{K C_s Q_{sd}}{R_c}$$

where:

E = Emission rate of PM, kg/1000 kg (lb/1000 lb) of coke burn-off.

C_s = Concentration of PM, g/dscm (lb/dscf).

Q_{sd} = Volumetric flow rate of effluent gas, dscm/hr (dscf/hr).

R_c = Coke burn-off rate, kg coke/hr (1000 lb coke/hr).

K = Conversion factor, 1.0 (kg²/g)/(1000 kg) [10³ lb/(1000 lb)].

2. Method 5B or 5F of 40 CFR part 60 is to be used to determine particulate matter emissions and associated moisture content from affected facilities without wet fuel gas desulfurization (FGD) systems; only Method 5B of 40 CFR part 60 is to be used when samples are taken downstream of wet FGD systems. The sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.015 dscm/min (0.53 dscf/min), except that shorter sampling times may be approved by the administrative authority when process variables or other factors preclude sampling for at least 60 minutes.

3. The coke burn-off rate (R_c) shall be computed for each run using the following equation:

$$R_c = K_1 Q_r (\%CO_2 + \%CO) K_2 Q_r - K_3 Q_r [(\%CO_2) + \%CO_2 + \%O_2]$$

where:

R_c = Coke burn-off rate, kg/hr (1000 lb/hr).

Q_r = Volumetric flow rate of exhaust gas from catalyst regenerator before entering the emission control system, dscm/min (dscf/min).

Q_a = Volumetric flow rate of air to fluid catalytic cracking unit (FCCU) regenerator, as determined from the fluid catalytic cracking unit control room instrumentation, dscm/min (dscf/min).

%CO₂ = Carbon dioxide concentration, percent by volume (dry basis).

%CO = Carbon monoxide concentration, percent by volume (dry basis).

%O₂ = Oxygen concentration, percent by volume (dry basis).

K₁ = Material balance and conversion factor, 0.2982 (kg-min)/(hr-dscm-percent) [0.0186 (lb-min)/(hr-dscf-percent)].

K₂ = Material balance and conversion factor, 2.088 (kg-min)/(hr-dscm-percent) [0.1303 (lb-min)/(hr-dscf-percent)].

K₃ = Material balance and conversion factor, 0.0994 (kg-min)/(hr-dscm-percent) [0.0062 (lb-min)/(hr-dscf-percent)].

a. Method 2 (LAC 33:III.6003) shall be used to determine the volumetric flow rate (Q_v).

b. The emission correction factor, integrated sampling, and analysis procedure of Method 3 (LAC 33:III.6009) shall be used to determine CO₂, CO, and O₂ concentrations.

4. Method 9 (LAC 33:III.6047) and the procedures of LAC 33:III.3121 shall be used to determine opacity.

C. If auxiliary liquid or solid fossil fuels are burned in an incinerator or waste heat boiler, the owner or operator shall determine the emission rate of PM permitted in LAC 33:III.3262.B as follows:

1. The allowable emission rate (E_s) of PM shall be computed for each run using the following equation:

$$E_s = 1.0 + A \left(\frac{H}{R_c} \right) K'$$

where:

E_s = Emission rate of PM allowed, kg/1000 kg (lb/1000 lb) of coke burn-off in catalyst regenerator.

1.0 = Emission standard, kg coke/1000 kg (lb coke/1000 lb).

A = Allowable incremental rate of PM emissions, 0.18 g/million cal (0.10 lb/million Btu).

H = Heat input rate from solid or liquid fossil fuel, million cal/hr (million Btu/hr).

R_c = Coke burn-off rate, kg coke/hr (1000 lb coke/hr).

K' = Conversion factor to units of standard, 1.0 (kg²/g)/(1000 kg) [10³ lb/(1000 lb)].

2. Procedures subject to the approval of the administrative authority shall be used to determine the heat input rate.

3. The procedure in Subsection B.3 of this Section shall be used to determine the coke burn-off rate (R_c).

D. The owner or operator shall determine compliance with the CO standard in LAC 33:III.3263 by using the integrated sampling technique of Method 10 of 40 CFR part 60, Appendix A to determine the CO concentration (dry basis). The sampling time for each run shall be 60 minutes.

E. The owner or operator shall determine compliance with the H₂S standard in LAC 33:III.3264.B.1 by using Method 11 (LAC 33:III.6053) to determine the hydrogen (H₂) concentration. The gases entering the sampling train should be at about atmospheric pressure. If the pressure in the refinery fuel gas lines is relatively high, a flow control valve may be used to reduce the pressure. If the line pressure is high enough to operate the sampling train without a vacuum pump, the pump may be eliminated from the sampling train.

The sample shall be drawn from a point near the centroid of the fuel gas line. The sampling time and sample volume shall be at least 10 minutes and 0.010 dscm (0.35 dscf). Two samples of equal sampling times shall be taken at about one-hour intervals. The arithmetic average of these two samples shall constitute a run. For most fuel gases, sampling times exceeding 20 minutes may result in depletion of the collection solution, although fuel gases containing low concentrations of H₂S may necessitate sampling for longer periods of time.

F. The owner or operator shall determine compliance with the SO₂ and the H₂S and reduced sulfur standards in LAC 33:III.3264.B.2 as follows:

1. Method 6 (LAC 33:III.6025) shall be used to determine the SO₂ concentration. The concentration in mg/dscm (lb/dscf) obtained by Method 6 (LAC 33:III.6025) is multiplied by 0.3754 to obtain the concentration in ppm. The sampling point in the duct shall be the centroid of the cross section if the cross-sectional area is less than 5.00 m² (54 ft²) or at a point no closer to the walls than 1.00 m (39 in.) if the cross-sectional area is 5.00 m² or more and the centroid is more than 1.00 m from the wall. The sampling time and sample volume shall be at least 10 minutes and 0.010 dscm (0.35 dscf) for each sample. Eight samples of equal sampling times shall be taken at about 30-minute intervals. The arithmetic average of these eight samples shall constitute a run. Method 4 (LAC 33:III.6013) shall be used to determine the moisture content of the gases. The sampling point for Method 4 (LAC 33:III.6013) shall be adjacent to the sampling point for Method 6 (LAC 33:III.6025). The sampling time for each sample shall be equal to the time it takes for two Method 6 (LAC 33:III.6025) samples. The moisture content from this sample shall be used to correct the corresponding Method 6 (LAC 33:III.6025) samples for moisture. For documenting the oxidation efficiency of the control device for reduced sulfur compounds, Method 15 (LAC 33:III.6063) shall be used following the procedures of Subsection F.2 of this Section.

2. Method 15 (LAC 33:III.6063) shall be used to determine the reduced sulfur and H₂S concentrations. Each run shall consist of 16 samples taken over a minimum of three hours. The sampling point shall be the same as that described for Method 6 (LAC 33:III.6025) in Subsection F.1 of this Section. To ensure minimum residence time for the sample inside the sample lines, the sampling rate shall be at least 3.0 lpm (0.10 cfm). The SO₂ equivalent for each run shall be calculated after being corrected for moisture and oxygen as the arithmetic average of the SO₂ equivalent for each sample during the run. Method 4 (LAC 33:III.6013) shall be used to determine the moisture content of the gases as in Subsection F.1 of this Section. The sampling time for each sample shall be equal to the time it takes for four Method 15 (LAC 33:III.6063) samples.

3. The oxygen concentration used to correct the emission rate for excess air shall be obtained by the integrated sampling and analysis procedure of Method 3 (LAC 33:III.6009). The samples shall be taken simultaneously with the SO₂, reduced sulfur, and H₂S or moisture samples. The SO₂, reduced sulfur, and H₂S samples shall be corrected to zero percent excess air using the equation in Subsection H.3 of this Section.

G. Each performance test conducted for the purpose of determining compliance under LAC 33:III.3264.C shall consist of all testing performed over a seven-day period using the applicable test methods and procedures specified in this Section. To determine compliance, the arithmetic mean of the results of all the tests shall be compared with the applicable standard.

H. For the purpose of determining compliance with LAC 33:III.3264.C.1, the following calculation procedures shall be used:

1. Calculate each one-hour average concentration (dry, zero percent oxygen, ppmv) of sulfur dioxide at both the inlet and the outlet to the add-on control device as specified in LAC 33:III.3125.H. These calculations are made using the emission data collected under LAC 33:III.3265.A.

2. Calculate a seven-day average (arithmetic mean) concentration of sulfur dioxide for the inlet and for the outlet to the add-on control device using all of the one-hour average concentration values obtained during seven successive 24-hour periods.

3. Calculate the seven-day average percent reduction using the following equation:

$$R_{SO_2} = \frac{100(C_{SO_{2(i)}} - C_{SO_{2(o)}})}{C_{SO_{2(i)}}$$

where:

R_{SO_2} = Seven-day average sulfur dioxide emission reduction, percent.

$C_{SO_{2(i)}}$ = Sulfur dioxide emission concentration determined in Subsection H.2 of this Section at the inlet to the add-on control device, ppmv.

$C_{SO_{2(o)}}$ = Sulfur dioxide emission concentration determined in Subsection H.2 of this Section at the outlet to the add-on control device, ppmv.

100 = Conversion factor, decimal to percent.

4. Outlet concentration of sulfur dioxide from the add-on control device for compliance with the 50 ppmv standard, reported on a dry, O₂-free basis, shall be calculated using the procedures outlined in Subsection H.1 and 2 of this Section, but for the outlet monitor only.

5. If supplemental sampling data are used for determining the seven-day averages under this Subsection and such data are not hourly averages, then the value obtained for each supplemental sample shall be assumed to represent the hourly average for each hour over which the sample was obtained.

6. For the purpose of adjusting pollutant concentrations to zero percent oxygen, the following equation shall be used:

$$C_{adj} = C_{meas} \left[\frac{20.9_c}{(20.9 - \%O_2)} \right]$$

where:

C_{adj} = Pollutant concentration adjusted to zero percent oxygen, ppm or g/dscm.

C_{meas} = Pollutant concentration measured on a dry basis, ppm or g/dscm.

20.9_c = 20.9 percent oxygen - 0.0 percent oxygen (defined oxygen correction basis), percent.

20.9 = Oxygen concentration in air, percent.

%O₂ = Oxygen concentration measured on a dry basis, percent.

I. For the purpose of determining compliance with LAC 33:III.3264.C.2, the following reference methods and calculation procedures shall be used except as provided in Subsection I.12 of this Section.

1. One three-hour test shall be performed each day.

2. For gases released to the atmosphere from the fluid catalytic cracking unit catalyst regenerator:

a. Method 8 (LAC 33:III.6045) as modified in Subsection I.3 of this Section for the concentration of sulfur oxides calculated as sulfur dioxide and moisture content;

b. Method 1 (LAC 33:III.6001) for sample and velocity traverses;

c. Method 2 (LAC 33:III.6003) calculation procedures (data obtained from Method 3 and Method 8 [LAC 33:III.6009 and 6045]) for velocity and volumetric flow rate; and

d. Method 3 (LAC 33:III.6009) for gas analysis.

3. Method 8 (LAC 33:III.6045) shall be modified by the insertion of a heated glass fiber filter between the probe and first impinger. The probe liner and glass fiber filter temperature shall be maintained above 160°C (320°F). The isopropanol impinger shall be eliminated. Sample recovery procedures described in Method 8 (LAC 33:III.6045) for container Number 1 shall be eliminated. The heated glass fiber filter also shall be excluded; however, rinsing of all connecting glassware after the heated glass fiber filter shall be retained and included in container Number 2. Sampled volume shall be at least one dscm.

4. For Method 3 (LAC 33:III.6009), the integrated sampling technique shall be used.

5. Sampling time for each run shall be at least three hours.

6. All testing shall be performed at the same location. Where the gases discharged by the fluid catalytic cracking unit catalyst regenerator pass through an incinerator or waste heat boiler in which auxiliary or supplemental gaseous, liquid, or solid fossil fuel is burned, testing shall be conducted at a point between the regenerator outlet and the incinerator or waste heat boiler. An alternative sampling location after the waste heat boiler may be used if alternative coke burn-off rate equations and, if requested, auxiliary/supplemental fuel SO_x credits have been submitted to and approved by the administrative authority prior to sampling.

7. Coke burn-off rate shall be determined using the procedures specified under Subsection B.3 of this Section, unless Subsection I.6 of this Section applies.

8. Calculate the concentration of sulfur oxides as sulfur dioxide using Equation 8-3 in Method 8 (LAC 33:III.6045) to calculate and report the total concentration of sulfur oxides as sulfur dioxide (C_{SO_x}).

9. Sulfur oxides emission rate calculated as sulfur dioxide shall be determined for each test run by the following equation:

where:

$$E_{SO_x} = C_{SO_x} \frac{Q_{sd}}{1,000}$$

E_{SO_x} = Sulfur oxides emission rate calculated as sulfur dioxide, kg/hr.

C_{SO_x} = Sulfur oxides emission concentration calculated as sulfur dioxide, g/dscm.

Q_{sd} = Dry volumetric stack gas flow rate corrected to standard conditions, dscm/hr.

1,000 = Conversion factor, g to kg.

10. Sulfur oxides emissions calculated as sulfur dioxide per 1,000 kg coke burn-off in the fluid catalytic cracking unit catalyst regenerator shall be determined for each test run by the following equation:

$$R_{SO_x} = \left(\frac{E_{SO_x}}{R_c} \right)$$

where:

R_{SO_x} = Sulfur oxides emissions calculated as sulfur dioxide, kg/1,000 kg coke burn-off.

E_{SO_x} = Sulfur oxides emission rate calculated as sulfur dioxide, kg/hr.

R_c = Coke burn-off rate, 1,000 kg/hr.

11. Calculate the seven-day average sulfur oxides emission rate as sulfur dioxide per 1,000 kg of coke burn-off by dividing the sum of the individual daily rates by the number of daily rates summed.

12. An owner or operator may, upon approval by the administrative authority, use an alternative method for determining compliance with LAC 33:III.3264.C.2, as provided in LAC 33:III.3115.B. Any requests for approval must include data to demonstrate to the administrative authority that the alternative method would produce results adequate for the determination of compliance.

J. For the purpose of determining compliance with LAC 33:III.3264.C.3, the following analytical methods and calculation procedures shall be used:

1. One fresh feed sample shall be collected once per eight-hour period.

2. Fresh feed samples shall be analyzed separately by using any one of the following applicable analytical test methods: ASTM D129-64 (Reapproved 1978), ASTM D1552-83, ASTM D2622-87, or ASTM D1266-87. The applicable range of some of these ASTM methods is not adequate to measure the levels of sulfur in some fresh feed samples. Dilution of samples prior to analysis with verification of the dilution ratio is acceptable upon prior approval of the administrative authority.

3. If a fresh feed sample cannot be collected at a single location, then the fresh feed sulfur content shall be determined as follows:

a. Individual samples shall be collected once per eight-hour period for each separate fresh feed stream charged directly into the riser or reactor of the fluid catalytic cracking unit. For each sample location the fresh feed volumetric flow rate at the time of collection of the fresh feed sample shall be

measured and recorded. The same method for measuring volumetric flow rate shall be used at all locations.

b. Each fresh feed sample shall be analyzed separately using the methods specified under Subsection J.2 of this Section.

c. Fresh feed sulfur content shall be calculated for each eight-hour period using the following equation:

$$S_f = \sum_{i=1}^n \frac{S_i Q_i}{Q_f}$$

where:

S_f = Fresh feed sulfur content expressed in percent by weight of fresh feed.

n = Number of separate fresh feed streams charged directly to the riser or reactor of the fluid catalytic cracking unit.

Q_f = Total volumetric flow rate of fresh feed charged to the fluid catalytic cracking unit.

S_i = Fresh feed sulfur content expressed in percent by weight of fresh feed for the "ith" sampling location.

Q_i = Volumetric flow rate of fresh feed stream for the "ith" sampling location.

4. Calculate a seven-day average (arithmetic mean) sulfur content of the fresh feed using all of the fresh feed sulfur content values obtained during seven successive 24-hour periods.

K. The test methods used to supplement continuous monitoring system data to meet the minimum data requirements in LAC 33:III.3264.E will be used as described below or as otherwise approved by the administrative authority.

1. Method 6, Method 6B, or Method 8 (LAC 33:III.6025, 6029, or 6045) is used. The sampling location(s) are the same as those specified by the administrative authority.

2. For Method 6 (LAC 33:III.6025), the minimum sampling time is 20 minutes and the minimum sampling volume is 0.02 dscm (0.71 dscf) for each sample. Samples are taken at approximately 60-minute intervals. Each sample represents a one-hour average. A minimum of 18 valid samples is required to obtain one valid day of data.

3. For Method 6B (LAC 33:III.6029), collection of a sample representing a minimum of 18 hours is required to obtain one valid day of data.

4. For Method 8 (LAC 33:III.6045), the procedures as outlined in this Section are used. The equivalent of 16 hours of sampling is required to obtain one valid day of data.

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 21:

§3267. Reporting and Recordkeeping Requirements

A. Each owner or operator subject to LAC 33:III.3264.C shall notify the administrative authority of the specific provisions of LAC 33:III.3264.C with which the owner or operator seeks to comply. Notification shall be submitted with

the notification of initial start-up required by LAC 33:III.3113.A.3. If an owner or operator elects at a later date to comply with an alternative provision of LAC 33:III.3264.C, then the administrative authority shall be notified by the owner or operator in the quarterly (or semiannual) report described in Subsections C and D of this Section for the quarter during which the change occurred.

B. Each owner or operator subject to LAC 33:III.3264.C shall record and maintain the following information:

1. if subject to LAC 33:III.3264.C.1:

a. all data and calibrations from continuous monitoring systems located at the inlet and outlet to the control device, including the results of the daily drift tests and quarterly accuracy assessments required under 40 CFR part 60, appendix F, procedure 1;

b. measurements obtained by supplemental sampling (refer to LAC 33:III.3265.A.13 and 3266.K) for meeting minimum data requirements; and

c. the written procedures for the quality control program required by 40 CFR part 60, appendix F, procedure 1;

2. if subject to LAC 33:III.3264.C.2, measurements obtained in the daily Method 8 (LAC 33:III.6045) testing or those obtained by alternative measurement methods, if LAC 33:III.3266.I.12 applies;

3. if subject to LAC 33:III.3264.C.3, data obtained from the daily feed sulfur tests; and

4. each seven-day rolling average compliance determination.

C. Each owner or operator subject to LAC 33:III.3264.C shall submit a report each quarter except as provided by Subsection D of this Section. The following information shall be contained in each quarterly report:

1. any seven-day period during which:

a. the average percent reduction and average concentration of sulfur dioxide on a dry, O₂-free basis in the gases discharged to the atmosphere from any fluid cracking unit catalyst regenerator for which the owner or operator seeks to comply with LAC 33:III.3264.C.1 is below 90 percent and above 50 ppmv, as measured by the continuous monitoring system prescribed under LAC 33:III.3265.A.8, or above 50 ppmv, as measured by the outlet continuous monitoring system prescribed under LAC 33:III.3265.A.9. The average percent reduction and average sulfur dioxide concentration shall be determined using the procedures specified under LAC 33:III.3266.H;

b. the average emission rate of sulfur dioxide in the gases discharged to the atmosphere from any fluid catalytic cracking unit catalyst regenerator for which the owner or operator seeks to comply with LAC 33:III.3264.C.2 exceeds 9.8 kg SO_x/1,000 kg coke burn-off, as measured by the daily testing prescribed under LAC 33:III.3266.I. The average emission rate shall be determined using the procedures specified under LAC 33:III.3266.I; and

c. the average sulfur content of the fresh feed for which the owner or operator seeks to comply with LAC 33:III.3264.C.3 exceeds 0.30 percent by weight. The fresh feed sulfur content, a seven-day rolling average, shall be

determined using the procedures specified under LAC 33:III.3266.J;

2. any 30-day period in which the minimum data requirements specified in LAC 33:III.3264.E are not obtained;

3. for each seven-day period during which an exceedance has occurred as defined in Subsection C.1.a-c and 2 of this Section:

a. the date that the exceedance occurred;

b. an explanation of the exceedance;

c. whether the exceedance was concurrent with a start-up, shutdown, or malfunction of the fluid catalytic cracking unit or control system; and

d. a description of the corrective action taken, if any;

4. if subject to LAC 33:III.3264.C.1:

a. the dates for which and brief explanations as to why fewer than 18 valid hours of data were obtained for the inlet continuous monitoring system;

b. the dates for which and brief explanations as to why fewer than 18 valid hours of data were obtained for the outlet continuous monitoring system;

c. identification of times when hourly averages have been obtained based on manual sampling methods;

d. identification of the times when the pollutant concentration exceeded full span of the continuous monitoring system;

e. description of any modifications to the continuous monitoring system that could affect the ability of the continuous monitoring system to comply with Method 2 or Method 2A (LAC 33:III.6103 or 6105); and

f. results of daily drift tests and quarterly accuracy assessments as required under 40 CFR part 60, appendix F, procedure 1;

5. if subject to LAC 33:III.3264.C.2, for each day in which a Method 8 (LAC 33:III.6045) sample result was not obtained, the date for which and brief explanation as to why a Method 8 (LAC 33:III.6045) sample result was not obtained, for approval by the administrative authority;

6. if subject to LAC 33:III.3264.C.3, for each eight-hour shift in which a feed sulfur measurement was not obtained, the date for which and brief explanation as to why a feed sulfur measurement was not obtained, for approval by the administrative authority.

D. If no exceedances as defined in Subsection C.1.a-c and 2 of this Section occur in a quarter, and if the owner or operator has not changed the standard under LAC 33:III.3264.C under which compliance is obtained, then the owner or operator may submit a semiannual report in which a statement is included that states no exceedances had occurred during the affected quarter(s). If the owner or operator elects to comply with an alternative provision of LAC 33:III.3264.C, a quarterly report must be submitted for the quarter during which a change occurred.

E. For any periods for which sulfur dioxide or oxides emissions data are not available, the owner or operator of the affected facility shall submit a signed statement indicating if any changes were made in operation of the emission control system during the period of data unavailability which could affect the ability of the system to meet the applicable emission limit. Operations of the control system and affected facility

during periods of data unavailability are to be compared with operation of the control system and affected facility before and following the period of data unavailability.

F. The owner or operator of the affected facility shall submit a signed statement certifying the accuracy and completeness of the information contained in the report.

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

§3268. Performance Test and Compliance Provisions

A. LAC 33:III.3115.D shall apply to the initial performance test specified under Subsection C of this Section, but not to daily performance tests required thereafter as specified in Subsection D of this Section. LAC 33:III.3115.F does not apply when determining compliance with the standards specified under LAC 33:III.3264.C. Performance tests conducted for the purpose of determining compliance under LAC 33:III.3264.C shall be conducted according to the applicable procedures specified under LAC 33:III.3266.

B. Owners or operators who seek to comply with LAC 33:III.3264.C.3 shall meet that standard at all times, including periods of start-up, shutdown, and malfunctions.

C. The initial performance test shall consist of the initial seven-day average calculated for compliance with LAC 33:III.3264.C.1, 2, or 3.

D. After conducting the initial performance test prescribed under LAC 33:III.3115, the owner or operator of a fluid catalytic cracking unit catalyst regenerator subject to LAC 33:III.3264.C shall conduct a performance test for each successive 24-hour period thereafter. The daily performance tests shall be conducted according to the appropriate procedures specified under LAC 33:III.3266. In the event that a sample collected under LAC 33:III.3266.I or J is accidentally lost or conditions occur in which one of the samples must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operators' control, compliance may be determined using available data for the seven-day period.

E. Each owner or operator subject to one provision of LAC 33:III.3264.C but at a later date seeks to comply with another of the provisions of LAC 33:III.3264.C shall begin conducting daily performance tests as specified under Subsection D of this Section immediately upon electing to become subject to one of the other provisions of LAC 33:III.3264.C. The owner or operator shall furnish the administrative authority a written notification of the change in a quarterly report that must be submitted for the quarter in which the change occurred.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:

A public hearing will be held on January 27, 1995, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability

need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, February 3, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486. Commentors should reference this proposed regulation by Log AQ88.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Standards of Performance for New Stationary Sources

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings to state or local government units expected as a result of the proposed rule amendments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Promulgation of the proposed rule amendments is not expected to have any major effect on revenue collections by state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs and/or economic benefits are expected to accrue to nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no expected significant effect on competition and employment from the implementation of the proposed rule amendments.

Gus Von Bodungen
Assistant Secretary
9412#062

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Office of the Governor Patient's Compensation Fund Oversight Board

Financial Responsibility Requisite (LAC 37:III.505)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., advertises its intent to amend LAC 37:III.Chapter 5, as follows, which provides for and governs the financial responsibility requisite to enrollment with the fund.

**Title 37
INSURANCE**

**Part III. Patient's Compensation Fund Oversight Board
Chapter 5. Enrollment with the Fund**

§505. Financial Responsibility: Insurance

A. A health care provider shall be deemed to have demonstrated the financial responsibility requisite to enrollment with the fund by submitting certification that the health care provider is or will be insured on a specific date under a policy of insurance, insuring the health care provider against professional health care malpractice liability claims with indemnity limits of not less than \$100,000 plus interest per claim, aggregate annual indemnity limits of not less than \$300,000 plus interest for all claims arising or asserted within a 12-month policy period.

B. To be acceptable as evidence of financial responsibility pursuant to this Section, an insurance policy:

1. must be issued:

a. by an insurance company admitted to do business in this state; or

b. by an unauthorized insurer which is on the list of approved unauthorized insurers maintained by the commissioner of insurance pursuant to R.S. 22:1262.1 and which has:

i. a rating by A.M. Best and Co. of "A-" or higher, or

ii. a rating by Standard and Poor's of "AA-" or higher, or

iii. A rating by Moody's of "Aa" or higher; or

c. by a risk retention group organized and operating in this state pursuant to the Federal Liability Risk Retention Act of 1986, 15 U.S.C. 3901 et seq., and which has given notice of its operation within this state to the commissioner of insurance and is otherwise in compliance with the Louisiana Risk Retention Group Law, R.S. 22:2071 et seq.; or

d. by the Louisiana Residual Malpractice Insurance Authority, R.S. 40:1299.46;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February, 1992), amended LR 21:

Interested persons may submit inquiries and written comments on the amended rules until 4:30 p.m., January 20, 1995, to Suanne Grosskopf, Executive Director, Patient's Compensation Fund Oversight Board, 200 Lafayette Street, Number 600, Baton Rouge, LA 70801 and/or to Larry M. Roedel, General Counsel, Patient's Compensation Fund Oversight Board, 8440 Jefferson Highway, Third Floor, Baton Rouge, LA 70809.

Suanne Grosskopf
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Financial Responsibility Requisite**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The costs to implement the amendments will include printing, copy charges, and associated costs of publication, administrative overhead expenses and legal fees, all of which should not exceed \$1,500. This amount will be paid by the Patient's Compensation Fund, R.S. 40:1299.44 et seq., from statutory dedications, i.e., absorbed/paid from available monies in the budget FY 94-95. There is no need at this time for increased staff to handle the implementation of these amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no material effect on the revenue collections of state or local governmental units from implementation of these amendments pertaining to insurance policies evidencing financial responsibility requisite to enrollment with the Patient's Compensation Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups. The proposed amendments pertain to insurance policies evidencing financial responsibility requisite to enrollment with the Patient's Compensation Fund.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Patient's Compensation Fund Oversight Board anticipates no effect on either competition or employment as a result of adopting the amendments.

Suanne Grosskopf
Executive Director
9412#028

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

**Temporary Permit for International Medical
Graduates (LAC 46:XLV.125,411)**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the State Board of Medical Examiners, pursuant to the authority vested in the board by R.S. 37:1270(A), 37:1270(B)(6), and 37:1275, and the provisions of the Administrative Procedure Act, intends to adopt a rule which would make a Graduate Education Temporary Permit available to qualified international medical graduates (graduates of foreign medical schools) to permit their enrollment and participation in accredited postgraduate medical education training programs, internships and residencies, at Louisiana medical schools and other institutions offering accredited postgraduate programs, LAC 46:XLV, Subpart 1, Chapter 3, §411. The board is concurrently proposing an amendment to its rule prescribing fees to licenses, permits and examinations,

to prescribe the fees applicable to application for and renewal of Graduate Education Temporary Permits, LAC 46:XLV, Subpart 1, Chapter 1, §125(B). The proposed rule and rule amendment are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Profession

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter A. General Provisions

§125. Licenses, Permits and Examination

B. For processing applications for permits of the type indicated, the following fees shall be payable to the board:

1. Graduate medical education temporary permit \$100
2. Visiting physician permit \$ 50
3. Short-term residency permit \$ 50
4. Other institutional or temporary permits \$ 50

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:906 (November 1984), amended LR 17:603 (June 1991), amended LR 21:

**Chapter 3. Licensing and Certification of Physicians
and Surgeons**

Subchapter H. Restricted Licensure, Permits

§411. Graduate Education Temporary Permit

A. In General. The board may issue a Graduate Education Temporary Permit (GETP) to an international medical graduate (a graduate of a medical school located outside of the United States, Canada and Puerto Rico) for the purpose of enrolling and participating in an accredited program of postgraduate medical education (residency or fellowship) at a Louisiana medical school, college or other accredited medical institution, upon documentation of the qualifications, satisfaction of the procedural requirements and compliance with the conditions and limitations prescribed by this section.

B. Qualifications for Permit. To be eligible for a GETP, an international medical graduate (IMG) shall:

1. be at least 21 years of age;
2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of the Immigration and Naturalization Service (INS) of the United States pursuant to the Immigration and Nationality Act and the commissioner's regulation thereunder, as evidenced by an exchange visitor (J-1), temporary worker (H-1B) or immigrant visa, or INS-issued or approved work permit or by a pending application for such visa or permit;
3. be of good moral character, as defined by §303(A)(3);
4. possess a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college listed, at the time the degree was awarded, in the then-current edition of the *World Directory of Medical Schools* published by the World Health Organization; and
5. possess the Standard Certificate of the Educational Commission for Foreign Medical Graduates (ECFMG); and

6. have received a written commitment from an accredited Louisiana medical school, college or other accredited medical institution formally appointing the IMG to a postgraduate medical education training program which is conducted by such medical school, college or other medical institution and which is fully accredited by (and not on probational status with) the American Council for Graduate Medical Education (ACGME), subject only to the board's issuance of a GETP to the applicant; and agreeing to furnish to the board the periodic reports required by Subsections (F)(2) and (3) of this section.

C. Procedural Requirements. An application form will be supplied by the board only after the qualifications prescribed by Subsection (B)(6) of this section have been documented by an original letter, signed by the director of the postgraduate training program of the Louisiana medical school, college or other accredited medical institution at which the IMG will train, certifying that the qualifications and conditions of such subsection have been met.

D. Restrictions and Limitations. An IMG holding a Graduate Education Temporary Permit issued by the board shall not participate in postgraduate medical training or engage in the practice of medicine within the state of Louisiana other than as follows:

1. During the 12 months following the effective date of an initial GETP, an IMG may participate in postgraduate medical training and engage in the practice of medicine solely at the principal location of the sponsoring medical school, college or medical institution and shall not participate in clinical rotations to or serve at institutions at any other location.

2. An IMG who is enrolled and participating in a first postgraduate year (PGY-1) medical education training program shall not assume independent responsibility for patient care or otherwise engage in the practice of medicine.

3. An IMG shall not engage in the practice of medicine, or participate in any postgraduate medical training program within the state of Louisiana, other than within the scope of the postgraduate medical training program for which such person has been approved by the board, nor other than at the medical school, college or other accredited medical institution from which such IMG holds his or her appointment, or at medical facilities affiliated with such program.

4. An IMG holding a GETP shall be subject to supervision by the supervising physicians designated by the medical school, college or medical institution at which the postgraduate medical education training program is conducted.

E. Term of Permit. Each GETP issued under this section shall expire on the last day of June in the year following the year in which it is issued. A GETP shall also expire, and automatically become null and void, effective on any date that the permittee's appointment to the designated postgraduate training program is terminated.

F. Renewal, Reissuance. A GETP which has expired may be renewed or reissued by the board for a successive one-year period, provided that:

1. prior to or during the initial 12-month term of the permit, the permit holder has taken and successfully passed

Part 3 of the USMLE;

2. not less than five months nor more than seven months following the effective date of an initial GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that the permit holder has performed successfully and competently in such postgraduate program;

3. not less than two months prior to the annual expiration of a GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that:

a. the permit holder has performed successfully and competently in such postgraduate program;

b. the medical school, college or other medical institution will renew the IMG's appointment for an additional year; and

c. no grounds are known which would provide cause for the board to refuse to renew or to revoke the permit holder's GETP pursuant to Subsection (H) hereof.

G. Causes for Refusal to Issue or Renew. Notwithstanding an IMG's eligibility for a GETP, or for renewal of a GETP, under the standards and criteria set forth in this section, the board may nonetheless deny issuance or renewal of a GETP for any of the causes for which it may deny licensure under R.S. 37:1285(A) or for which it may revoke a GETP pursuant to Subsection (H) of this section.

H. Causes for Revocation. Upon prior notice and an opportunity to be heard in accordance with the Louisiana Administrative Procedure Act, a GETP may be revoked by the board:

1. for any of the causes specified by R.S. 37:1285(A);

2. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications requisite to eligibility for a GETP as prescribed by this section; or

3. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the GETP or otherwise violated any of the conditions, restrictions and limitations prescribed by Subsection (D) hereof.

I. Effect of Revocation. An IMG whose GETP has been revoked by the board pursuant to Subsection H of this section shall not thereafter be eligible for a GETP or license to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A), 37:1270(B)(6), and 37:1275.

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

Inquiries concerning the proposed rule may be directed in writing to: Delmar Rorison, Executive Director, State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule, in writing, to the State Board of Medical Examiners, Suite 100, 830 Union Street, New Orleans, LA 70112-1499. Written comments must be submitted to and received by the board within 60 days of from the date 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.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Temporary Permit for International
Medical Graduates**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of the proposed rule will result in additional costs to the Board of Medical Examiners in the amount of \$5,478 in FY 94-95, \$13,362 in FY 95-96, and \$19,498 in FY 96-97, representing additional expenses associated with the production, preparation, and processing of initial applications and annual renewals, issuance permits and renewals, and monitoring, investigative and enforcement responsibilities with respect to holders of such permits.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed rule will generate fees applicable to initial and renewal applications (\$100 and \$25, respectively). Based on a projection of GETP applications and renewals, it is estimated that such revenues may total \$5,000 for FY 94-95, \$13,750 for FY 95-96, and \$19,375 for FY 96-97.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Qualified international medical graduates (IMGs) who are offered residency training positions in Louisiana medical schools and certain hospitals, will have an opportunity to participate in such programs under the proposed rule. Medical schools and other institutions conducting medical residency training may, as a result of the proposed rule, be able to fill residency positions which might otherwise have been unfilled. The rule will require IMGs to complete application and renewal documents and require sponsoring residency programs to prepare and submit certain reports on a periodic basis. It is not anticipated such paperwork will represent any material cost to the affected persons and institutions. It is not anticipated that the proposed rule will have any material impact on the receipts and/or income of IMGs or of the institutions at which they may serve in residency training.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

It is not anticipated that the proposed rules will have any significant impact on competition or employment in either the public or private sector, though the availability of the proposed permit may increase employment to the extent that positions filled by qualified international medical graduates would not otherwise have been filled by graduates of American medical schools.

Delmar Rorison
Executive Director
9412#048

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

**Licensure by Examination
(LAC 46:XLVII.3349)**

Notice is hereby given, in accordance with R.S.49:950 et seq., that the State Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:911, R.S. 37:918(A)(E)(K), and the provisions of the Administrative Procedure Act, intends to amend the professional and occupational standards for licensure as a registered nurse by examination. The proposed rule is set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General Rules

Subchapter D. Registration and Licensure

§3349. Licensure by Examination

* * *

C. Requirements for retaking the NCLEX-RN: Applicants for licensure by examination shall pass the exam within four attempts and within four years of graduation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920, and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended LR 11:348 (April 1985), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1572 (December 1993), LR 21:

Inquiries concerning the proposed rules may be directed in writing to: Barbara L. Morvant, Executive Director, State Board of Nursing, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the State Board of Nursing, at 912 Pere Marquette Building, 150 Baronne Street, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of the date 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.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure by Examination**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated implementation cost or savings to the Louisiana State Board of Nursing.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on revenue collections by the Louisiana State Board of Nursing.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Unsuccessful candidates after four years or four attempts will not be eligible for licensure by examination as a registered nurse. These individuals would need to seek other means of employment and the related education and training. Cost would be contingent upon the type of RN program previously attended and the alternative field of employment chosen and related education and training.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

Individuals who are unsuccessful after four years or four attempts will need to seek other means of employment.

Barbara L. Morvant, R.N., M.N.
Executive Director
9412#029

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

**Continuing Education, Prohibitions, Fees
(LAC 46:LIV.Chapters 1, 3, 5)**

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Physical Therapy Examiners (board), pursuant to the authority vested in the board by R.S. 2401.2A(3), intends to amend its existing rules as set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LIV. Louisiana State Board of
Physical Therapy Examiners**

**Chapter 1. Physical Therapists and Physical Therapists
Examiners**

Subchapter I. Continuing Education

§169. Requirements

A. Minimum Continuing Education Requirements. Licensees shall document successful completion of 1.2 units, or 12 hours of acceptable clinical, continuing education credit during each annual period.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR:664 (July 1991), LR 19:208 (February 1993), LR 21:

§173. Exemptions

* * *

B. The following groups of licensees may be exempt from compliance with the continuing education requirement:

* * *

2. Louisiana licensees who are unable to fulfill the requirement because of illness or other personal hardship.

C. The board must receive a timely request for an exemption. Such a request shall be considered timely if submitted to the board at least 60 days prior to December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3)

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 21:

Subpart 3. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§303. Definitions

As used in this Chapter, the following terms and phrases shall have the meaning specified:

Board—the Louisiana State Board of Physical Therapy Examiners which shall be domiciled in Lafayette, Lafayette Parish, Louisiana.

License—the lawful authority of a physical therapist or physical therapist assistant to engage in the practice of physical therapy in the state of Louisiana, as evidenced by a certification duly issued by and under the official seal of the board. A temporary permit is not a license.

Licensed Physical Therapist or P.T.—a physical therapist possessing a license issued by the board under Chapter 1 of these rules.

Licensed Physical Therapist Assistant or P.T.A.—a physical therapist assistant possessing a license issued by the board under Chapter 1 of these rules.

Person—includes a natural person, partnership, corporation, association, or other entity having legal existence, unless the context requires a more limited meaning.

Practice Setting—unless otherwise defined the physical address location in which patient care is performed.

Prescription—a request for diagnostic or therapeutic physical therapy procedure or regimen subscribed by an individual lawfully authorized to make or give such order or directive.

Referral—a request for physical therapy evaluation or treatment made by an individual lawfully authorized to make such request.

State—any state of the United States, the District of Columbia, and Puerto Rico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 21:

Subchapter B. Prohibitions

§307. Unauthorized Practice

* * *

B. No person shall hold himself out to the public, an individual patient, a physician, dentist, or podiatrist, or to any insurer or indemnity company or association or governmental authority as a physical therapist, physiotherapist or physical therapist assistant, nor shall any person directly or indirectly identify or designate himself as a physical therapist,

physiotherapist, registered physical therapist, licensed physical therapist, physical therapist assistant, or licensed physical therapist assistant, nor use in connection with his name the letters, P.T., L.P.T., R.P.T., or P.T.A. or any other words, letters, abbreviations, insignias, or sign tending to indicate or imply that the person constitutes physical therapy, unless such person possesses a current license or temporary permit duly issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 21:

§323. Documentation Standards

A. A written record of physical therapy provided shall be kept on each patient or client served. A complete record shall include written documentation of prescription or referral when required by law, initial evaluation, treatment provided, progress notes, reassessment, and patient status at discharge.

1. A prescription or referral is a written request for physical therapy signed by a qualified practitioner which may initially be a verbal order but must be later confirmed in writing. The verbal order shall be documented by the physical therapist in the patient's record. If the verbal order is not confirmed in writing, then the physical therapist shall send a written communication requesting a written prescription or referral to the prescribing practitioner within fifteen days of commencement of treatment or by the fifth treatment session, whichever occurs first. A copy of the written communication to the prescribing or referring practitioner must be maintained in the patient's record.

2. An initial physical therapy evaluation is the written documentation of patient history, pertinent medical diagnosis, signs, symptoms, objective tests or measurements, and the physical therapist's interpretation of such findings, as well as goals and treatment plan recommendations. The initial physical therapy evaluation shall be documented and signed by the physical therapist performing the evaluation. An initial physical therapy evaluation shall not be documented or signed by a physical therapist assistant or other supportive personnel.

3. Progress note is the written documentation of the patient's subjective status, changes in objective findings, and progression or regression toward established goals. A progress note shall be written and signed by the attending physical therapist or physical therapist assistant and shall not be written or signed by a physical therapy aide/technician. A progress note shall be written a minimum of once per week, or if the patient is seen less frequently, then at every visit.

4. Reassessment is the written documentation which includes all elements of a progress note as well as a revision of goals and treatment plan as indicated. A reassessment must be written once per month, or if the patient is seen less frequently, then at every visit. A reassessment shall be written and signed by the attending physical therapist. A reassessment shall not be written or signed by a physical therapist assistant or other supportive personnel.

5. Treatment record is the written documentation of each patient visit which includes specific treatment and/or any

equipment provided which shall be signed or initialed by the attending physical therapist or physical therapist assistant. A treatment record shall be maintained only if a progress note is not written for each patient visit. A treatment record may be in the form of a checklist, flow sheet, or narrative.

6. Discharge summary is the written documentation of the reasons for discontinuation of care, degree of goal achievement and a discharge plan which shall be written and signed by the attending physical therapist. A discharge summary shall not be written or signed by a physical therapist assistant or other supportive personnel. A discharge summary shall be written at the termination of physical therapy care.

B. The documentation standards set forth above do not mandate a particular format, however, a complete physical therapy record must include these elements.

C. A signature stamp shall not be used in lieu of a written signature on physical therapy patient records. Forms of electronic signatures which meet Joint Commission on Accreditation of Health Care Organizations (JCAHO) Standards are acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:

Subpart 5. Fees

Chapter 5. Fees

§501. Fees

A. The board may collect the following fees:

Examination Fee	\$ 310
Reciprocity Fee	150
Re-examination Fee	285
Re-instatement Fee	75
Annual Renewal of License Fee	75
Verification of Licensure Fee	
Out-of-State	20
Duplicate Wall License Fee	30
Duplicate Billfold License Fee	10

B. Annual renewal fees provided in this Section shall be paid to the board by January 1 of each year.

C. If annual renewal fees are not paid by January 1 of each year, a license will lapse and a reinstatement fee will be charged, in addition to the annual renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 13:750 (December 1987), LR 15:392 (May 1989), LR 17:667 (July 1991), LR 18:962 (September 1992), LR 21:

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number

of persons or the proper entities, then a public hearing on these matters will be held on Saturday, January 28, 1995 at 9 a.m., at the office of the Louisiana State Board of Physical Therapy Examiners, 2014 West Pinhook Road, Suite 701, Lafayette, LA 70508. Please contact the board office at (318) 262-1043 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed rule may be directed to this address and made to the attention of Sharon Toups, Chairman. Such comments should be submitted no later than the close of business at 4:30 p.m. on Friday, January 20, 1995.

Sharon Toups
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education, Prohibitions, Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board will not incur any implementation cost associated with the proposed rule adoption.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board does not anticipate an increase in revenue from the change in examination and re-examination fee. The increase in the examination fee is due to an increase in the price of the national licensure examination. The board will be paying \$185 for each exam as opposed to the current cost of \$100 per exam.

The board anticipates an annual increase in revenue from the increase in licensure verification fee of approximately \$4,800.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals applying for licensure as physical therapists or physical therapist assistants by examination will have to pay a fee of \$310 to take the exam for the first time. Those individuals who fail the exam will pay \$285 to re-take the examination. The increase in cost will be effective for those who sit for the exam after January 1, 1995.

Those physical therapists or physical therapist assistants who are leaving Louisiana to work in another state will pay \$20 for a licensure verification to be sent to that state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All states will be increasing their examination fee due to the increased cost of the exam. Since there is a national shortage of physical therapists and physical therapist assistants, there should be no change in the current employment opportunities for these individuals.

Sharon Toups
Chairman
9412#021

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Nonemergency Medical Transportation (NEMT)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This notice is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

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

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing, shall amend the previous rule to allow for establishment of additional rates for profit providers for reimbursement of specific nonemergency medical transportation (NEMT) services to implement the following:

1. Profit/Remote Rural Capitated Rates - defined as rural capitated trips that are greater than 120 miles round-trip, including wheelchair-bound patients who are non-ambulatory, as established by the dispatch office. These trips will be paid at a monthly rate of \$300. This is not applicable to "Friends and Family Providers."

2. Profit/Enhanced Capitated Rates - defined as capitated rates for Medicaid recipients who require five or more trips on a weekly basis for the entire month, including wheelchair-bound patients who are nonambulatory, as established by the dispatch office. These trips will be paid at a monthly rate of \$300.

This is not applicable to "Friends and Family Providers."

3. Rates for Wheelchair-bound patients who are non-ambulatory as established by the dispatch office:

a. Wheelchair trips (local/profit) - the rate for local trips by profit providers for wheelchair-bound patients who are non-ambulatory shall be established at \$25 per round trip. This is not applicable to capitated trips which are paid on a monthly basis.

b. Wheelchair trips (local/non-profit) - the rate for local trips by nonprofit providers for wheelchair-bound patients who are nonambulatory shall be established at \$20 per round trip.

c. Wheelchair - Capitated/Rural/Profit - the monthly capitated rate for wheelchair-bound patients who are non-ambulatory shall be established at \$250 per month.

d. Wheelchair - Capitated/Urban/Profit - the monthly capitated rate for wheelchair bound patients who are non-ambulatory shall be established at \$180 per month.

The above rules are not applicable to "Friends and Family Providers."

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

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter at 9:30 a.m., Tuesday, January 24, 1995, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. of the day of the public hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nonemergency Medical Transportation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to the state associated with the implementation of this proposed rule is approximately \$493,901 for SFY 1995 and \$533,006 for SFY 1996 and \$559,657 SFY 1997.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated revenue collections for state government is an increase of \$1,311,951 for SFY 1995 and \$1,363,138 for SFY 1996 and \$1,431,285 for SFY 1997. There is no estimated effect on revenue collections on local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that the combined increases shown above represent additional payments for nonemergency medical transportation services for Medicaid recipients who require specialized transportation services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this rule.

Thomas D. Collins
Director
9412#047

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Justice
Consumer Protection Section**

**Unfair or Deceptive Trade Activities
(LAC 16:III)**

The Consumer Protection Section of the Louisiana Department of Justice hereby proposes to adopt the following consumer oriented regulations. R.S. 51:1405(B) and R.S. 36:706 provide the Consumer Protection Section with the authority to promulgate rules and regulations which are consistent with provisions contained in the Louisiana Unfair and Deceptive Trade and Practices Act (R.S. 51:1401 et. seq.).

The proposed rules hereby repeal and supersede all previous rules except those rules concerning deceptive pricing which were promulgated by this office in October of 1994. These rules will serve to update and redefine the current consumer protection regulations.

**TITLE 16
COMMUNITY AFFAIRS
Part III. Consumer Protection**

These rules and regulations may be cited in abbreviated fashion as follows: LAC 16:III.

In accordance with R.S. 51:1405 (B), these rules and regulations shall not conflict with the Constitution of this state and shall be interpreted giving due consideration to the intent of the legislature as evidenced by all of the statutes of the state. These rules and regulations shall be consistent with Section 5 (a) (1) of the Federal Trade Commission Act [15 U.S.C. §45 (a) (1)], as from time to time amended, any rule or regulation promulgated thereunder, and any finally adjudicated court decision interpreting the provisions of said act, rules, and regulations. This consistency shall be, therefore, the same as the Federal Trade Commission's responsibility over both (1) anti-trust or other restraint of trade types of activities and (2) unfair or deceptive types of activities relating to trade and commerce as it affects consumer and business interests.

Multi-level Distribution and Chain Distributor Marketing Schemes

A. Definitions. For the purpose of this rule, the following definitions shall apply:

Pyramid Sales Marketing Scheme—the conduct of any business in trade and commerce wherein a multi-level distribution scheme or a chain distributor scheme, or a combination of these schemes, is used.

Chain Distributor Scheme—a sales device whereby a person, upon a condition that he make an investment, is granted a license or right to recruit for profit one or more additional persons who also are granted such license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted such license or right upon such condition. A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for the above license or right to recruit or the receipt of profits therefrom, does not change the identity of the scheme as a chain distributor scheme.

Investment—any acquisition, for a cause or consideration other than personal services, of movable or personal property, tangible or intangible, for profit or business purposes, and includes, without limitation, franchises, business opportunities and services. It does not include real estate, securities registered in accordance with Louisiana law, or sales demonstration equipment and materials furnished at cost for use in making sales and not for resale.

Multi-level Distribution Scheme—a scheme whereby goods or services are distributed through independent agents, contractors or distributors at different levels, wherein any one level enjoys a different rate of pricing or discounting from that of any other level, and wherein participants in the marketing program may recruit other participants and wherein commissions, cross-commissions, bonuses, refunds, discounts, dividends or other consideration in the marketing program may be paid as a result of the sale of such goods and services or the recruitment, actions or performances of additional participants.

B. Prohibitions

1. Any marketing scheme utilizing a chain distributor scheme, as defined in this rule, is per se an unfair and deceptive trade practice, in violation of R.S. 51:1405(A).

2. It shall also be an unfair and deceptive trade practice, in violation of R.S. 51:1405(A), for any person using any pyramid sales marketing scheme to do any of the following:

a. to fail to provide in the contract of participation in bold face type of a minimum size of 10 points a statement substantially indicating that such contract may be canceled for any reason at any time by a participant upon notification in writing to the company of his election to cancel. If the participant has purchased products while the contract of participation was in effect, all products in a resalable condition then in the possession of the participant shall be repurchased. The repurchase shall be at a price of not less than 90 percent of the original net cost to the participant returning such goods, taking into account any sales made by or through such participant prior to notification to the company of the election to cancel; or

b. to require participants in its marketing program to

purchase products or services or pay any other cause or consideration in order to participate in the marketing program unless such products or services are in reasonable quantities in relation to the rate at which they actually sell and unless it agrees:

i. to repurchase all or part of any products which are in a resalable condition at a price of not less than 90 percent of the original net cost to the participant; and

ii. to repay not less than 90 percent of the original net cost of any services purchased by the participant; and

iii. to refund not less than 90 percent of any other consideration paid by the participant in order to participate in the marketing program; or

c.i. to operate or, directly or indirectly, participate in the operation of any multi-level marketing program wherein the financial gains to the participants are primarily dependent upon the continued, successive recruitment of other participants and where sales to nonparticipant are not required as a condition precedent to realization of such financial gains; or

ii. to offer to pay, pay, or authorize the payment of any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration to any participants in a multi-level marketing program solely for the solicitation or recruitment of other participants therein; or

iii. to offer to pay, pay, or authorize the payment of any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration to any participants in a multi-level marketing program in connection with the sale of any product or service unless such participant performs a bona fide and essential supervisory, distributive, selling or soliciting function in the sale or delivery of such product or services to the ultimate consumer; or

iv. to offer to pay, pay, or authorize the payment of any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration to any participant where payment thereof is or would be dependent on the element of chance dominating over the skill or judgment of such participant, or where no amount of judgment or skill exercised by the participant has any appreciable effect upon any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration which the participant may receive, or where the participant is without that degree of control over the operation of such plan as to enable him substantially to affect the amount of finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration which he may receive or be entitled to receive; or

d. to represent, directly or indirectly, that participants in a multi-level marketing program will earn or receive any stated gross or net amount, or represent in any manner, the past earnings of participants; provided, however, that a written or verbal description of the manner in which the marketing plan operates shall not, standing alone, constitute a representation of earnings, past or future; or

e. to represent, either directly or indirectly, that additional distributors or sales personnel are easy to secure or retain, or that all or substantially all participants will succeed; or

f. to fail to comply with all Louisiana corporation registration laws, if applicable, or, in any case, to fail to notify the Consumer Protection Section of the Louisiana Department of Justice of any of the following, prior to its doing business in this state:

i. that it will be doing business in Louisiana;

ii. each place within Louisiana where it will actually be doing business;

iii. the full name and mailing and permanent address of its authorized agent for service of process within Louisiana, which it is also required to have at all times herein;

iv. that the Consumer Protection Section of the Louisiana Department of Justice and its representatives are authorized and invited to attend any and all of its opportunity meetings, recruitment meetings, training sessions, or any other meeting wherein a prospective participant or any participant is explained the marketing system, and are authorized and invited to visit, at any reasonable time, any and all places wherein it keeps files, records, data, communications, or information and to inspect same.

C. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

D. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

Magazine and Periodical Subscription Service Sales Practices

A. Prohibited magazine and periodical subscription service sales practices shall include:

1. soliciting or accepting subscriptions for magazines or other periodicals without authority to sell same or which cannot be delivered or caused to be delivered within 90 days; or

2. requiring subscribers to substitute magazines or other periodicals in the place of those originally subscribed for; or

3. substituting magazines or other periodicals for those subscribed for without the consent of the subscribers; or

4. representing, directly or by implication, that the delivery of magazines sold is guaranteed, without clearly and conspicuously disclosing the terms and conditions of such guarantee, or misrepresenting in any manner the terms and conditions of any guarantee; or

5. failing to notify a subscriber within 30 days from the date of sale of any subscription of the inability to place all or part of a subscription agreement and deliver each of the magazines or other publications subscribed for; and to offer each such subscriber the option to receive a pro rata reduction in the contract price or a full refund of the money paid for such subscription or part thereof which is undeliverable, or, with the written consent of the subscriber to substitute other publications of comparable value, in lieu thereof; or

6. failing to give clear and conspicuous oral and written notice to each subscriber that upon written request said subscriber will be entitled to a pro rata refund of monies paid or a like reduction in the contract price if he does not receive the magazine or periodicals subscribed for within 90 days of the date of sale; or

7. misrepresenting in any manner the savings which will

be accorded or made available to purchasers; or

8. representing, directly or indirectly, that any salesman, agent, solicitor or employee of a magazine or periodical subscription service is primarily conducting or participating in a survey, quiz, or is engaged in any activity other than soliciting business; or misrepresenting in any manner the purpose of the call or solicitation; or

9. misrepresenting any other aspect of the contract, sale, cost or service to be provided in any manner, with the intent to induce a consumer to enter a contract or otherwise subscribe to the services offered.

B. Whoever engages in a prohibited magazine or periodical subscription sales practice violates R.S. 51:1405(A) prohibiting, inter alia, unfair and deceptive acts and practices in trade and commerce.

C. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

D. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

Bait Advertising

A. Bait advertising is any representation or offer to sell any goods or services in any manner or by any means of communication, which representation has the effect of luring consumers to the location of the goods or services represented, or which induces consumers to contact the vendor or any of his agents, representatives or employees for the purpose of showing, demonstrating or selling to the consumer the goods or services represented, or where, at the time of any previously arranged meeting, any of the following acts or practices are engaged in by the vendor, his agents, representatives, or employees:

1. the refusal to show, demonstrate, or sell the goods or services represented in accordance with the terms of representation;

2. the disparagement by acts or words of the represented goods or services or the disparagement of the guarantee, credit terms, availability of service, repairs or parts, or in any other respect, in connection with it;

3. the failure to have available at all outlets listed in the representation a sufficient quantity of the goods or services to meet reasonably anticipated demands, unless the representation clearly and adequately discloses that supply is limited and/or the goods or services are available only at designated outlets;

4. the refusal to take orders for the represented goods or services to be delivered within a reasonable period of time;

5. the showing or demonstrating of goods or services which are defective, unusable or impractical for the purpose represented or implied in the representation;

6. use of a sales plan or method of compensation for salesmen or penalizing salesmen, to prevent or discourage them from selling the represented goods or services;

7. attempt, through the use of the acts or practices enumerated in Paragraphs 1-6 above, or by any other scheme, to switch consumers from buying the goods or services represented in order to sell something else at a higher price or on a basis more advantageous to the vendor.

B. Whoever engages in bait advertising violates R.S.

51:1405(A), prohibiting, inter alia, unfair or deceptive trade practices; provided further that this rule shall not operate as an exclusive definition of prohibited conduct in the area of trade and commerce, to which it applies or in any other area of trade and commerce, and shall not operate as a defense to other activity otherwise deemed to be an unfair method of competition or an unfair or deceptive act or practices in trade and commerce by this State, the Federal Trade Commission or by the courts of this state or of the United States.

C. If any part of this rule is judicially decreed to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end this rule is declared to be severable.

D. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

Deceptive Endorsements and Testimonials

A. Definition. For the purpose of this rule the following definition shall apply:

Endorsement or Testimonial—any message in advertising or by oral representation by the seller, his employee, or his agent, that conveys to the consumer views favorable to the product or service advertised in which the consumer may attribute to some one other than the seller. Such views may be those of an individual, group or institution.

B. It shall be an unfair and deceptive act or practice for any seller to do any of the following:

1. state or imply that a product or service is endorsed or approved by any individual, group or institution when such has product has not been so endorsed or approved;

2. imply or state that an endorsement is more extensive than it actually is when it has not been so endorsed or approved;

3. state or imply that a product or service is "recommended by many doctors" or "approved by millions of motorists" or other claims of such similar import, or claims of endorsements from specific individuals or organizations when such product or service has not been so endorsed or approved.

C. Whoever engages in these practices violates R.S. 51:1405(A), prohibiting, inter alia, unfair and deceptive acts and practices in trade and commerce.

D. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

Misrepresentation of Old, Used, or Secondhand Goods

A. Definition. For the purpose of this rule the following definition shall apply:

Old, Used, or Secondhand Merchandise—any commodity sold in the ordinary course of trade and commerce which has been previously subjected to the use for which it was intended, provided that this Section shall not apply to undamaged merchandise returned to a seller, nor to a use which can be reasonably construed as a trial use by a prospective purchaser where the commodity does not leave the premises of the seller.

B. It shall be an unfair and deceptive act or practice for any seller to sell merchandise which is old, used, or secondhand, in such a way that the purchaser is led to believe that such merchandise is new and unused.

C. Whoever engages in these practices violates R.S. 51:1405(A), prohibiting, inter alia, unfair and deceptive acts and practices in trade and commerce.

D. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

E. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

Imperfections, Rejects and Distressed Goods

A. Definition. For the purpose of this rule the following definition shall apply:

Distressed Goods—consumer goods which are defaced, scratched, dented, damaged, or have been subjected to conditions that alter their original state, such as fire damage or damage from a natural disaster.

B. It is unfair to sell or offer for sale merchandise which has imperfections, which are rejects, or which are distressed or salvaged goods without first clearly and conspicuously disclosing to all prospective purchasers thereof the imperfections and the identity, status, nature, and the fact of the rejection, distress and salvage.

C. It is unfair to sell or offer for sale merchandise which has no imperfection which is not a reject, and which is not distressed or salvaged in such a manner as to lead any prospective purchaser thereof to believe that same has imperfections, is a reject, or is distressed or salvaged and, if purchased, will, on that account, render a savings on the price of such merchandise.

D. Whoever engages in "misrepresentation of distressed goods, imperfections, and rejects" violates R.S. 51:1405(A) prohibiting, inter alia, unfair and deceptive trade practices; provided further that this rule shall not operate as an exclusive definition of prohibited conduct in the area of trade and commerce to which it applies or in any other area of trade and commerce, and shall not operate as a defense to other activity otherwise deemed to be an unfair method of competition or an unfair or deceptive act or practice in trade and commerce by the State of Louisiana, the Federal Trade Commission, or by the courts of this state or of the United States.

D. If any part of this rule is judicially decreed to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end this rule is declared to be severable.

E. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

Charitable Solicitations

A. Definitions. For the purpose of this rule the following definitions shall apply:

Charitable Organization—a group which is or holds itself out to be benevolent, civic, recreational, educational, voluntary health, social service, philanthropic, fraternal, humane, patriotic, religious, or eleemosynary organization, or any person who solicits or obtains contributions solicited from the public for charitable purposes. A chapter, branch, area office, or similar affiliate or any person soliciting contributions within the state for a charitable organization which has its principal place of business outside the state, shall be a charitable organization for the purposes of this rule.

Contributions—the promise or grant of any money or property of any kind or value.

Person—any individual, organization, trust, foundation, group, association, partnership, corporation, society, or any combination of them.

Professional Solicitor—any person who, for a financial consideration, solicits contributions for, or on behalf of, a charitable organization, whether such solicitation is performed personally or through his agents, servants, or employees or through agents, servants, or employees specially employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such person; or a person who plans, conducts, manages, or advises a charitable organization in connection with the solicitation of contributions. A salaried officer or salaried employee of a charitable organization maintaining a permanent establishment within the state shall not be deemed to be a professional solicitor. However, any salaried officer or salaried employee of a charitable organization that engages in the solicitation of contributions in any manner for more than one charitable organization, if a fee is charged for services to the organization other than the one that he is employed by, shall be deemed a professional solicitor.

Religious Institutions—for the purposes of this rule include ecclesiastical or denominational organizations, churches, or established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on and shall also include those bona fide religious groups which do not maintain specific places of worship. Religious institutions also include such separate groups or corporations which from an integral part of those institutions which are exempt from federal income tax as exempt organizations under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1954, or of a corresponding section of any subsequently enacted Federal Revenue Act, and which are not primarily supported by funds solicited outside its own membership or congregation. Religious institutions for purposes of this rule also include such institutions soliciting contributions for construction and maintenance of a house of worship or clergyman's residence.

B. It shall be an unfair and deceptive act or practice for any person or charitable organization utilizing a professional solicitor or solicitors to do any of the following:

1. fail to annually register and submit a \$25 registration fee to the Consumer Protection Section of the Louisiana Department of Justice, at least 10 days prior to soliciting for contributions. The following information shall be included in the registration materials:

a. the name of the charitable organization and the purpose for which it was organized;

b. the principal address of the charitable organization and the address of any offices in this state. If the organization does not maintain an office, the name and address of the person having custody of its financial records;

c. the estimated amount of funds to be raised by professional solicitors and all costs and expenses incidental thereto including all publicity costs, all overhead costs, and all salaries or fees of professional solicitors to be paid out of solicited funds;

d. whether or not the organization or any professional solicitor associated with the organization has ever been enjoined by any court from soliciting contributions;

e. the purpose or purposes for which the contributions to be solicited shall be used;

f. the name or names under which it intends to solicit contributions;

g. the name or names of the individuals or officers of the organization who shall be responsible for the disbursement of any contributions;

h. the names and addresses of all professional solicitors to be used in the solicitation drive and a copy of the contract between the charitable organization and professional solicitor;

i. whether or not the charitable organization is incorporated and, if so, the charitable organization must submit a copy of their Articles of Incorporation to the Consumer Protection Section of the Louisiana Department of Justice;

j. whether or not the charitable organization has a Federal Income Tax exemption under Section 501 of the Internal Revenue Code and, if so, the charitable organization must submit a copy of its IRS 501(c)(3) tax exempt determination letter to the Consumer Protection Section of the Louisiana Department of Justice;

k. whether or not the charitable organization has a tax exempt status in the state of Louisiana and written proof of such status;

2. misrepresent to prospective contributors or to the general public the purpose of the organization and the purpose for which funds are solicited or are to be solicited;

3. state and/or imply in news releases, brochures, advertisements, pamphlets, or such other means, or when soliciting funds, that the charitable organization is incorporated by the state of Louisiana and/or has a Federal Income Tax exemption when such is not the case.

C. The provisions of this rule shall not apply to religious institutions as defined in Subsection A, educational institutions recognized and/or approved by the State Department of Education or the appropriate state educational board, the State Department of Education or the appropriate state education board, any hospital organized under the laws of this state, or any voluntary health organization organized under the laws of this state and/or under federal laws.

D. Whoever fails to comply with Subsection B of this rule violates R.S. 51:1405 (A), prohibiting, inter alia, unfair and deceptive acts and practices in trade and commerce.

E. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1405 (B).

HISTORICAL NOTE: Promulgated by the Department of Justice, Consumer Protection Section, LR 21:

Interested persons may submit written comments to the following address: Tamera R. Velasquez, Chief, Consumer Protection Section, Louisiana Department of Justice, Box

94095, Baton Rouge, LA 70804-9095. She is responsible for responding to inquiries regarding this proposed rule.

David Kimmel
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Unfair or Deceptive Trade Activities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no cost for implementation of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost and/or economic benefit that would directly affect persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment as the proposed regulations simply redefine and update the current deceptive pricing regulations.

David Kimmel
Director
Public Protection
9412#051

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation**

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

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation hereby gives notice that rulemaking procedures have been initiated to amend the Insurance Cost Containment rules, LAC 40:I.Chapter 11, §§ 1106 and 1131.

The changes to these rules clarify the rules by defining the discount period when applying the discounts earned pursuant to R.S. 23:1178 and 1179.

This proposed rule is currently in effect by virtue of an emergency rule published in the November, 1994 *Louisiana Register*.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 11. Insurance Cost Containment

§1106. Experience Modifier Rates

An employers' eligibility shall be based on its experience

modifier rate of December 31 of the prior year.

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

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

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

§1131. Discount Application Period

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

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

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

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than January 27, 1994, at 4:15 a.m., to Alvin J. Walsh, Director, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040 or 1001 North 23rd Street, Baton Rouge, LA 70802 or to FAX (504)342-5665.

Alvin J. Walsh
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Insurance Cost Containment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule and amendment clarify the rules by defining the period to which the discounts earned pursuant to R.S. 23:1178 and 1179 shall apply. These discounts are honored by the insurance companies providing workers' compensation coverage to the eligible employers. Neither state or local governmental units will incur costs or savings as a result of the implementation of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no increased costs or economic benefits resulting from the adoption of these rules as the rules only clarify current rules by defining the discount period.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Alvin J. Walsh
Assistant Secretary
9412#040

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Oilfield Site Restoration
(LAC 43:I.1901-2901)

In accordance with the Administrative Procedure Act, R.S.49:950 et seq., the Department of Natural Resources, Office of Conservation and the Oilfield Site Restoration Commission, hereby proposes to adopt the following rule.

TITLE 43

NATURAL RESOURCES

Part I. Office of the Secretary

Subpart 1. Oilfield Site Restoration

Chapter 19. Administration

§1901. Memorandum of Understanding

The Oilfield Site Restoration Commission, created within the Department of Natural Resources, the secretary, and the assistant secretary for the office of conservation have been delegated certain authority for the administration of this Part by Act 404 of the 1993 Regular Session of the Louisiana Legislature. A memorandum of understanding shall be prepared and signed by each of these entities for the purpose of delineating and agreeing on the authority and function to be served by and between each of them for the administration of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

§1903. Oilfield Site Restoration Commission

A. The commission shall perform all duties and functions authorized or imposed upon it by the provisions of Act 404 of the 1993 Regular Session of the Louisiana Legislature. The commission shall further enter into a memorandum of understanding in which it assumes the responsibilities and delegates the authority to the secretary according to the provisions of Act 404 of the 1993 Regular Session of the Louisiana Legislature.

B. The commission shall receive and administer the oilfield site restoration fund and the site-specific trust accounts within the fund, as provided by law, and is authorized to expend monies from the fund for its administration of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

§1905. Office of the Secretary

A. The secretary shall perform all duties and functions authorized or imposed upon him by the provisions of Act 404 of the 1993 Regular Session of the Louisiana Legislature. The secretary shall further enter into a memorandum of understanding in which he assumes the responsibilities and delegation of authority according to the provisions of Act 404 of the 1993 Regular Session of the Louisiana Legislature.

B. The office of the secretary is authorized to expend a sum, not to exceed \$200,000 per annum, for his administration of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

§1907. Office of Conservation-Assistant Secretary

A. The assistant secretary shall perform all duties and functions authorized or imposed upon him by the provisions of Act 404 of the 1993 Regular Session of the Louisiana Legislature. The assistant secretary shall further enter into a memorandum of understanding in which he assumes the responsibilities and delegation of authority according to the provisions of Act 404 of the 1993 Regular Session of the Louisiana Legislature.

B. After review of existing rules of the office of conservation, the assistant secretary, shall promulgate any additional rules necessary for implementation of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

Chapter 21. Oilfield Site Restoration Fund

§2101. Establishment of the Fund

A. The commission, upon approval of the secretary, may enter into one or more agreements with a private legal entity to receive and administer the "Oilfield Site Restoration Fund," which shall be an interest bearing trust fund.

B. The fund shall be and remain the property of the commission.

C. The monies in the fund shall be used solely for the purposes of this Part.

D. The secretary shall:

1. certify to the secretary of the Department of Revenue and Taxation, the date on which the fund equals or exceeds the sum of \$10 million (hereinafter referred to as the cap); and

2. the fees as provided for in R.S. 30:87 shall not be collected after the first day of the second month following certification that the cap has been reached; and

3. the secretary of the Department of Revenue and Taxation shall resume collection of the fees upon certification by the secretary that, based on expenditures or the commitment to expend monies, the fund has fallen below \$6 million;

4. site-specific trust account funds within the fund shall

not be counted to determine the cap.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

§2103. Assessment of Fees

A. Effective September 1, 1993, in order to establish the oilfield site restoration fund, the following fees shall be paid:

1. One cent on each barrel of oil and condensate from producing wells. Production shall be determined based on severance tax collections on each well.

2. One-half of one cent on each barrel of oil and condensate from incapable wells. Production shall be determined based on severance tax collections on each well.

3. One-fourth of one cent on each barrel of oil and condensate from stripper wells. Production shall be determined based on severance tax collections on each well.

4. One-fifth of one cent per thousand cubic feet on gas. Production shall be determined based on severance tax collections on each well.

B. Effective July 1, 1995 the fee shall be increased by five percent annually, in each of the above categories, until such time as the fee has been increased by 100 percent per site after which no further increases shall occur.

C. The royalty and overriding royalty owners shall not bear the burden of the fees imposed hereinabove.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

§2105. Site-Specific Trust Accounts; Accounting Method

A. Prior to the establishment of the first site-specific trust account on any oilfield site, where there are one or more wells associated with a transfer of ownership interest, any party to the transfer may file an application with the secretary, on a form provided by the department, requesting approval of a site-specific trust account based on a site assessment estimate, for restoration of the site so transferred, in compliance with oilfield site restoration under LAC 43:XIX.101 et seq.

B. After a site-specific trust account has been established on any oilfield site, including one or more wells, any subsequent transfer of any interest in one or more wells included in the account shall be reported to the secretary, on a form provided by the department. The secretary shall review the reported transfer and determine whether any modifications or adjustments to the account shall be made.

C. Upon application to the department, on a form provided by the department, by the seller and the purchaser of an oilfield site transferred prior to August 15, 1993, subject to agreement by the assistant secretary for the office of conservation, a site-specific trust account may be established, or, a prior established private trust account may be transferred to the oilfield site restoration fund. Any trust account being transferred shall be subject to review and may be modified to meet the requirements of these rules.

D. Once a site-specific trust account has been established the secretary may modify the funding requirements of the account at any time during the life of the oilfield site, upon recommendation of the commission, the assistant secretary, or

upon his own determination, based upon changes in operation, site conditions, or trust account status. After approval and establishment of a site-specific trust account only the responsible party shall be liable for payment of any modifications or adjustments required by the secretary.

E. When a transfer of an ownership interest (where there is an existing trust account), is reported to the secretary, as required by this Part, the secretary may, after review, determine, based on the nonsubstantial nature of the interest being transferred or the adequacy of the trust account, that no adjustment or modification to the existing trust agreement is necessary. If this occurs the secretary shall issue a letter of determination to the transferrer indicating that he shall be exempt from liability in accordance with this Part.

F. The party or parties to a transfer who propose to establish a site-specific trust account shall:

1. propose a funding schedule, based on the site restoration assessment, which will fully fund the site restoration at the end of the economic life of the oilfield site;

2. pay some contribution into the trust account at the time of transfer and make quarterly payments into the trust account throughout the economic life of the oilfield site.

G. Site-specific trust account funds shall only be used to restore the specific site to which they are dedicated.

H. At the end of the economic life of an oilfield site the responsible party shall restore the site according to the standards set forth in LAC 43:XIX.101 et seq. If the responsible party has restored the site, upon approval by the assistant-secretary, the monies in the site-specific trust account shall be returned him.

I. The commission may establish accounting procedures which will enable every transfer, whether it be one well site, a group of well sites, or a field, to be set up in one account for purposes of payment to the account. However, each well site may be accounted for in sub-accounts for purposes of tracking the individual production for its adequacy in maintaining support of the trust. The accounting procedure may also provide for moving a sub-account to a new or existing trust account in the event of a partial transfer of properties subsequent to an initial trust being established thereby segregating the transferred properties.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

§2107. Use of the Fund

A. In addition to the administrative cost provided for herein, the monies in the fund may be disbursed and expended as directed by the secretary for the following purposes:

1. any oilfield site assessments or restoration conducted by the department pursuant to this Part;

2. any costs and fees associated with the recovery of site restoration costs and penalties pursuant to R.S. 30:93 and 94;

3. the costs of assessment or restoration of commercial facilities as defined in R.S. 30: 73(4) not to exceed 25 percent of any sums deposited within the same calendar year in which the monies are expended.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

Chapter 23. Oilfield Site Restoration

§2301. Office of the Secretary; Oilfield Site Assessments or Restoration

A. The secretary or his agents, upon proper identification and notification, may enter the land of another for purposes of oilfield site assessments or restoration.

B. The secretary may enter into contracts for the purposes of site assessments or restoration to carry out the provisions of this Part, under the following circumstances:

1. When the secretary has declared in writing an emergency, he may take informal, detailed written bids from at least three contractors without the necessity of meeting the requirements of the state public bid law. Before execution of a contract, under emergency declaration, a performance bond shall be furnished by the contractor and the contracts shall be reviewed by the commissioner of administration.

2. Where no emergency exists, all contracts shall be made pursuant to the state public bid law.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

§2303. Oilfield Site Restoration Assessments; Site-Specific Trust Accounts

A. In the event that the parties to the transfer of an oilfield site elect to establish a site-specific trust account an oilfield site restoration assessment may be made prior to the transfer, or within one year from the date of the transfer, as required by the secretary.

B. An oilfield site restoration assessment shall be performed by a contractor chosen from the list of contractors approved by the commission or a contractor who submits his credentials to the commission for approval and is subsequently added to the list.

C. A site restoration assessment shall specifically detail site restoration needs and shall provide an estimate of the site restoration costs needed to restore the oilfield site, in accordance with the standards set forth in LAC 43:XIX.101 et seq., based on the conditions existing at the time of the transfer. The site restoration assessment shall be reported on a form provided by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

Chapter 25. Liability; Limitations

§2501. Non-Orphaned Oilfield Sites

A. The responsible party is liable for the site restoration of an unusable oilfield site.

B. If the responsible party fails to complete restoration of an oilfield site and the assistant secretary, after notice and hearing, has declared the site to be unusable, the secretary is authorized to disburse such funds as are necessary for site restoration from the site-specific trust account. After completion of the site restoration any remaining funds in the site-specific trust account shall be remitted to the responsible party.

C. If the site-specific trust account is depleted prior to the payment of all site restoration costs, the department shall attempt to collect the remainder of site restoration costs from the responsible party or ensure that the responsible party completes the site restoration to the satisfaction of the assistant secretary. If the responsible party is still unable to complete the site restoration, and the assistant-secretary declares the site to be orphaned, the Oilfield Site Restoration Fund shall contribute the balance of the restoration costs for the site.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

§2503. Orphaned Oilfield Sites

A. If a party has transferred an oilfield site after May 1, 1993 for which a site-specific trust account was established and the transferor has remained in compliance with this Part he shall not be liable for any site restoration for the non-orphaned or orphaned oilfield site.

B. If the assistant secretary has declared an oilfield site to be orphaned which was transferred prior to May 1, 1993 the secretary may expend monies from the fund to fully restore the site. Except for the responsible party, the secretary shall not be authorized to recover the restoration costs from parties which formerly operated or held working interest in the orphaned site unless the costs to fully restore the site exceed \$200,000. Transfer of an oilfield site shall be deemed to have taken place prior to May 1, 1993 where a purchase and sale agreement has been executed prior to May 1, 1993 and closing takes place within 120 days of execution.

C. If the assistant secretary has declared an oilfield site to be orphaned which was transferred after May 1, 1993 for which no site-specific trust account was established no responsible party, prior operators, or working interest owners shall receive the exemptions provided for in this Part.

D. If the assistant secretary has declared an oilfield site to be orphaned which was transferred after May 1, 1993 for which a site specific trust account was established the site shall be restored in the following manner:

1. the secretary shall expend the site-specific trust account funds; and

2. the assistant secretary shall collect any deficiencies from the responsible party; and

3. the secretary shall expend a maximum of \$200,000 from the general oilfield site restoration fund if there are remaining deficiencies; and

4. if there are still further deficiencies the secretary shall recover any remaining costs from any non-exempt prior operators and working interest owners in inverse chronological order from the date on which the oilfield site has been declared orphaned according to procedures established by the assistant secretary.

E. The state shall be exempt from the provisions of this Part.

F. The commission, the secretary, and the assistant secretary, and their agents, shall not be liable for any damages arising from an act or omission if the act or omission is part of a good faith effort to carry out the purpose of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

Chapter 27. Hearings; Appeals

§2701. Aggrieved Parties; Right to Hearing

A. The secretary shall not unreasonably withhold approval of a site-specific trust account. Any party who applies for a site-specific trust account and who is aggrieved by the decision of the secretary may request a hearing and finally judicial review in accordance with the hearings and appeal process established in Part I Chapter I of Title 43 of the Louisiana Administrative Code in the general rules and regulations in the Office of the Secretary.

B. Any party who is aggrieved by a decision under this Part by the commission, the secretary, or the assistant secretary, shall be entitled to a hearing and appeal process as set forth above.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

Chapter 29. Penalties

§2901. Violations of this Part

Any violations of this Part shall be subject to the penalties as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:

In accordance with the provisions of R.S. 49:951 et seq. and R.S.30:4, the commissioner of conservation will conduct a public hearing at 9 a.m., Wednesday, January 25, 1995, in the Conservation Auditorium, located on the first floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953.

Written comments will be accepted until 4:30 p.m., Wednesday, February 8, 1995, and should be directed to Ernest A. Burguières, III, Commissioner, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

Jack McClanahan
Secretary

Ernest A. Burguières, III,
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Oilfield Site Restoration**

NOTICE OF INTENT

**Department of Revenue and Taxation
Sales Tax Division**

Pesticides Used for Agricultural Purposes (LAC 61:I.4408)

Under the authority of R.S. 47:305.8 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, proposes to amend LAC 61:I:4408 pertaining to the exemption for pesticides used for agricultural purposes.

The use of crop oils, surfactants, drift control agents, and other solutions in applying qualifying pesticides has been an issue for some time. Pesticides are generally purchased in a concentrated form and mixed with an agent that allows the maximum effect of the pesticide when applied or distributed. This proposed amendment will exempt these agents when used to apply qualifying pesticides. This amendment further defines pesticides as those specified under state statutes and regulations by the Louisiana Department of Agriculture and Forestry and registration numbers assigned by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue and Taxation**

Chapter 44. Sales and Use Tax Exemptions

§4408. Pesticides Used for Agricultural Purposes

A. General. R.S. 47:305.8 provides an exemption from the taxes imposed by this Chapter for the sale at retail of pesticides used for agricultural purposes, including particularly, but not limited to, insecticides, herbicides, and fungicides used for agricultural purposes.

B. Definitions

Pesticides—include any preparation useful in the control of insects, plant life, fungus, or any other pests detrimental to agricultural crops, including the control of animal pests that meets the definition of a pesticide in accordance with the Department of Agriculture and Forestry of the State of Louisiana under R.S. 3:3202. Qualifying pesticides must be registered with the U.S. Environmental Protection Agency (EPA) and the Louisiana Department of Agriculture and Forestry or any other appropriate governmental agency and must carry a valid EPA FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act) number issued by the U.S. Environmental Protection Agency or a special label number assigned by the Louisiana Department of Agriculture and Forestry. The exemption also includes any solution mixed with a qualifying pesticide to allow for the proper distribution and application of the pesticide, including but not limited to crop oils, surfactants, adjuvants, emulsions, soaps, and drift agents.

Agricultural Purposes—any purpose directly connected with the operation of any farm, including poultry, fish, and crawfish farms, ranch, orchard or any other operation by which products are grown on the land in sufficient quantity to constitute a commercial operation. The exemption is not

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The department anticipates that approximately \$3.5 million annually will be collected from fees assessed the producers of oil and gas. Act 404 of the 1993 Regular Session specifies that a maximum of \$200,000 annually can be utilized for the administration of the Louisiana Oilfield Restoration Law. Estimated costs to the department is \$144,500 for FY 94/95, \$200,000 for FY 95/96 and \$200,000 for FY 96/97. The remaining \$3.3 million is to be used for the oilfield site assessment or restoration, payment of fees and costs associated with the administration of the fund and site-specific accounts, any costs and fees associated with the recovery of site restoration costs and penalties, and the assessment or restoration of commercial facilities.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state governmental units will be increased by an estimated \$3.5 million annually due to the fees assessed to the producers of oil and gas which are listed below:

1. one cent on each barrel of oil and condensate from producing wells;
2. one-half of one cent on each barrel of oil and condensate from incapable wells;
3. one-fourth of one cent on each barrel of oil and condensate from stripper wells;
4. one-fifth of one cent per thousand cubic feet on gas.

Based revenue collections to date total approximately \$3,500,000 annually from these fees.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

The estimated costs to producers of oil and gas is approximately \$3.5 million annually.

There could be to producers of oil and gas if a site-specific trust account is established at the time of transfer of ownership of one or more wells to a second party. Either party would bear the cost of having a site assessment conducted by an appropriate contractor outlining the total estimate of restoring the site so transferred in accordance with oilfield site restoration under LAC 43:XIX.101 et seq. Although it is anticipated that only a small number of applications for site-specific trust accounts will be submitted, the actual number is undeterminable.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Robert D. Harper
Undersecretary
9412#053

John R. Rombach
Legislative Fiscal Officer

intended to cover the sale of pesticides for use in private family vegetable gardens or in protecting ornamental plants used for landscape purposes.

C. Dealer Requirements. The dealer who fails to collect sales tax on the sale of pesticides covered by this Section must be able to show that they were used for legitimate commercial agricultural purposes as defined herein. The dealer must also be able to fully identify any purchaser from whom the tax was not collected. In the absence of this information, the dealer will be liable for the tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.8.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Sales Tax Division, LR 21:

All interested persons may submit data, views, or arguments, in writing to Raymond Tangney, Director of the Sales Tax Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821. All comments must be submitted by 4:30 p.m., Monday, January 30, 1995. A public hearing will be held on Tuesday, January 31, 1995, at 1:30 p.m. in the Department of Revenue and Taxation Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Raymond Tangney
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pesticides Used for Agricultural Purposes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This amendment will not result in any implementation costs or savings to state or local governmental units. The additional language provides for the definition of pesticides according to the Louisiana Pesticide Law and specifically exempts solutions mixed with qualifying pesticides.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This amendment will not result in any increase or decrease in tax collections for state or local governments. This rule is simply the statement of the policy on the exemption of pesticides. The utilization of a familiar definition of "pesticide" and existing pesticide registration numbers will create a more efficient implementation of this exemption.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This amendment will not result in any costs or economic benefits to directly affected persons or nongovernmental groups. The inclusion of a definition of "pesticides" would assist the sellers and buyers of pesticides in knowing which chemicals qualify for the exemption.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This amendment should have no effect on competition or employment. This amendment will allow both the seller and the

purchaser of pesticides to be better educated. This should solve any problems sellers had in administering the exemption and create the equalization of sellers.

Ralph Slaughter
Secretary
9412#060

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Revenue and Taxation Sales Tax Division

Sales and Use Tax (LAC 61:I.4301)

Under the authority of R.S. 47:301(16) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, proposes to amend LAC 61:I:4301.16 pertaining to the definition of tangible personal property.

The Supreme Court of Louisiana ruled in the case of *South Central Bell Telephone Co. v. Sidney J. Barthelemy, et. al.* (94-C-0499) on October 17, 1994 that both customized and canned software are tangible personal property and subject to the sales tax. Our current rule considers customized software as a nontaxable service and not subject to sales tax. This amendment will make our rule consistent with the court's definition of tangible personal property. This amendment will also incorporate additional exceptions to the definition of tangible personal property for certain coins, bullion, geophysical survey information, and repairs of motor vehicles that have been statutorily added to R.S. 47:301(16).

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 43. Sales and Use Tax

4301. Definitions

* * *

16. *Tangible Personal Property*

a. General. With the exception of certain provisions of R.S. 47:301(14) relating to the furnishing of services, the question of whether an item constitutes tangible personal property is of utmost importance in determining whether its sale, use, storage, consumption, rental, or lease is subject to tax under the provisions of this Chapter. Under pertinent provisions of the Louisiana Civil Code, tangible personal property must be construed to be tangible movable property. Thus, if property is movable and meets the definition of tangible personal property contained in this Section, it is tangible personal property. R.S. 47:301(16) defines tangible personal property to be any property which may be seen, weighed, felt, or touched, or is in any manner perceptible to the senses.

b. Exceptions. R.S. 47:301(16) provides for specific exceptions from the definition of "tangible personal property." The term "tangible personal property" shall not include:

i. stocks, bonds, notes, or other obligations or securities;

ii. gold, silver, or numismatic coins, or platinum, gold, or silver bullion having a total value of \$1,000 or more;

iii. proprietary geophysical survey information or geophysical data analysis furnished under a restrictive use agreement even if transferred in the form of tangible personal property; or

iv. repairs of a motor vehicle by a licensed motor vehicle dealer that is performed subsequent to the lapse of a applicable warranty on that vehicle and at no charge to the owner of the vehicle. The services performed on this repair, along with the parts used will not have any value for sales and use tax. The dealer performing this repair must be licensed as a dealer in motor vehicles through the New Motor Vehicle Commission or the Used Motor Vehicle Commission. The repair must be associated with a warranty extended by the manufacturer.

c. Computer Software. All computer software is "tangible personal property," whether considered "canned software" or "customized software." Thus, software is subject to tax regardless of the function of the software or whether transferred in physical form, via telephone lines, or via any other method.

i. This Section shall not be construed to include software developed by the person for which the software will be utilized. Subsequent transfer of this software will be considered a retail sale and subject to sales tax. The sale of software developed for another person will be considered a retail sale and subject to sales tax.

ii. The purchase of a software program may contain many components. These components may contain some nontaxable services when considered individually. When purchasing a software package, all charges the customer is required to pay to acquire the software, except those specifically exempt, will be subject to sales tax. Any nontaxable services, such as personnel training and consultation services, are not subject to sales tax. If any nontaxable services are purchased from the same vendor at the time the software is purchased and billed on the same invoice as the software purchase, these services must be broken out on the invoice or they will be subject to tax in the same manner as the software. If the invoice has separated the software purchase and any mandatory charges from the charges for nontaxable services, only the software and any mandatory charges will be subject to sales tax.

iii. The purchase of a maintenance agreement on computer software may contain many components. These components may contain both updates for the software and some nontaxable services. The updates for the computer program are considered subject to tax as they represent additional tangible personal property purchased. Any nontaxable service, such as consultation services, are not subject to tax as a purchase of tangible personal property. If any nontaxable services are purchased from the same vendor at the time the software is purchased and billed on the same invoice as the upgrades of the computer program, these services must be broken out on the invoice or they will be subject to tax in the same manner as the software. If the

invoice has separated the upgrades of the computer software from nontaxable services, only the upgrades of the software will be subject to sales tax.

d. Movable Versus Immovable. The nature of the property may change from movable to immovable or from immovable to movable so that its character at the moment of a transaction or activity must be established, in order to determine the taxability of that transaction or activity. As an example, a movable piece of machinery may be attached to a building in such a manner that it cannot be removed without doing damage to the machinery or to the building. In this case, the character of the property will have changed from movable to immovable. If, however, the machinery is attached in such a way that it may be removed from the building without doing damage to either it or the building, its character upon being separated reverts to movable property.

e. Repairs of Immovable Property. The distinction between movable and immovable property is of particular importance in determining whether repairs to property are taxable. If equipment or machinery removed from real property has been damaged, the item constitutes tangible personal property and repairs made thereto are taxable.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301(16).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Sales Tax Division, LR 21:

All interested persons may submit data, views, or arguments, in writing to Raymond Tangney, Director of the Sales Tax Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821. All comments must be submitted by 4:30 p.m., Friday, January 27, 1995.

A public hearing will be held on Monday, January 30, 1995, at 1:30 p.m. in the Department of Revenue and Taxation Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Raymond Tangney
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sales and Use Tax**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This amendment will not result in any substantial implementation costs or savings to state or local governmental units. The department will be required to notify taxpayers of the taxation of customized computer software, but this notification can be accomplished through existing publications. Some additional notification to specific taxpayers may be required, but this can be accomplished with existing resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This amendment will result in a substantial increase in tax collections for state and local governments. The state and local governments will be able to tax both customized and canned

software. Previously, the state and local governments have been unable to tax customized software. Information from the federal government through the 1987 Census of Services Industries suggests that the customized software market in Louisiana is as much as \$156.9 million annually or greater. Recent audits conducted by the Department of Revenue and Taxation suggest minimum annual sales of customized software in Louisiana of \$41 million. Based on this information, annual state revenue from the four percent state sales and use tax will increase at least \$1.7 million and as much as \$6.3 million or greater as a result of imposing the tax on customized software. Local revenue increases will vary because of differences in local tax rates and the level of these sales from one area to another.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This amendment will result in a substantial increase in cost for many persons and nongovernmental groups. Any person or company who obtains customized software will be required to pay tax on the acquisition price of the software.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This amendment should have no effect on competition or employment. This amendment will affect all dealers and purchasers of customized software equally.

Ralph Slaughter
Secretary
9412#059

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Voter Registration (LAC 67:III.201)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 1, General Administrative Procedures.

Pursuant to the National Voter Registration Act of 1993 and Act 10 of the 1994 Third Extraordinary Session of the Louisiana Legislature, the department will provide to applicants of the Food Stamp and AFDC Programs the opportunity to register to vote.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 1. General Administrative Procedures

Chapter 2. Voter Registration Services

§201. Voter Registration by Mail

A. The Office of Family Support as administrator of the Food Stamp and the Aid to Families with Dependent Children Programs is a designated voter registration agency.

B. In accordance with the guidelines of federal and state voter registration acts, parish offices shall provide to applicants and participants of these programs the opportunity to register to vote and shall further provide assistance to registrants as requested.

C. Parish offices shall accept and mail, or otherwise submit, state voter registration forms to their appropriate registrar of voters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:116 and P.L. 103-31.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on January 26, 1995 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Voter Registration**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Since the voter registration process will be incorporated into the routine administrative procedures for AFDC and Food Stamp clients and the registration forms will be provided by the Department of Elections and Registration, the cost to state government is for implementation only. The estimated cost is \$510 for publishing the rule and printing instructions and related manual material. Because the agency will send completed forms to the elections officer of each parish, the rule is expected to increase voter rolls and, therefore, should increase administrative costs in parish governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to any persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposal will have no impact on competition and employment.

Howard L. Prejean
Assistant Secretary
9412#034

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Eagle Lake Black Bass (LAC 76:VII.169)

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following rule on black bass (*Micropterus spp.*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing §169. Black Bass Regulations, Eagle Lake

The size regulation for black bass (*Micropterus spp.*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana is as follows:

It shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 14 inches total length on Eagle Lake, located east of the Mississippi River in Madison Parish, Louisiana. This rule will expire at midnight, April 2, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325(C), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:909 (July 1993), amended LR 21:

Interested persons may submit written comments on the proposed amendment to Bennie 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, February 1, 1995.

John F. "Jeff" Schneider
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Eagle Lake Black Bass

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amended rule will have no implementation costs. Enforcement of the amended rule will be carried out using existing staff. Madison Parish Enforcement Agents are presently employed to patrol Eagle Lake as part of their duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amended rule 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 NONGOVERNMENTAL GROUPS (Summary)

The amended rule will effect no changes in estimated costs and/or economic benefits to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The amended rule will have no immediate affect on competition and employment in this state.

Fredrick J. Prejean, Sr.
Undersecretary
9412#017

David W. Hood
Senior Fiscal Analyst

COMMITTEE REPORTS

COMMITTEE REPORT

Senate Committee on Health and Welfare
House Committee on Health and Welfare

Certified Medicaid Enrollment Centers

December 1, 1994

To the Governor of the State of Louisiana:

On November 30, 1994, pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., the Senate Committee on Health and Welfare and the House Committee on Health and Welfare met jointly for the purpose of determining acceptability of a proposed rule of the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing (*Louisiana Register*, pp. 944-946, August 20, 1994). This proposed rule provides for establishing revised participation requirements for agencies and institutions seeking to become Certified Medicaid Enrollment Centers.

Each legislative oversight committee voted unanimously to find the proposed rule unacceptable at this time. The committees did not agree with part (C)(2)(a) of the proposed rule which states that:

"Once the contractual agreement between DHH and the enrollment center is completed, the enrollment center becomes an agent of the state and in so doing the enrollment center or any of its employees is prohibited from acting on behalf of the client or serving in the role of the client's authorized representative."

The committees recognize that Louisiana has a large number of poor people residing in the state who have no health insurance or are underinsured and that we should continue our efforts to enroll our poor population in the Medicaid program to the greatest extent possible. Information and testimony received during the meeting indicated that there has been no widespread abuse or fraud on the part of the enrollment centers when they have served a dual role in the past in representing the state and acting as an authorized representative of the Medicaid eligible and recipient; enrollment centers have performed a valuable service in

assisting applicants in getting through the often cumbersome and confusing eligibility process; federal regulation does not require such prohibition, therefore, there is no legal support for such action.

For this reason, we request that you allow the action of these committees to stand.

Respectfully submitted,

Gerry E. Hinton, Chairman
Senate Committee on Health and Welfare

Jerry Thomas, Chairman
House Committee on Health and Welfare

9412#003

COMMITTEE REPORT

House Labor Committee Subcommittee on Oversight

Hearing Rules (LAC 40:I.Chapter 21)

November 28, 1994

To the Governor of the State of Louisiana:

Pursuant to the provisions of R.S. 49:968, the House of Representatives Labor Subcommittee on Oversight met on November 28, 1994 to review the proposed Hearing Officer Rules of the Louisiana Department of Labor, Office of Workers' Compensation (*Louisiana Register*, page 818, July 20, 1994).

There was lengthy testimony and discussion of the entire set of rules. The subcommittee severed and found §2142, Independent Medical Examiners, to be unacceptable after the motion to accept that Section of the rules failed by a vote of three yeas and four nays. The opponents testified that the Section of the proposed rule providing that the independent medical examiner who has timely filed his opinion cannot be subject to subpoena or deposition either for discovery purposes for at trial violates a party's fundamental right to due process by denial of the right of cross-examination. The opponents also noted that the fact that the independent medical examiner's report is prima facie evidence of the facts stated therein in any subsequent proceeding makes the right of cross-examination imperative.

The subcommittee suggested that §2133 be revised to delete the words "immediately due and" from the second sentence. The representatives of the Office of Workers' Compensation concurred in this technical change and will promulgate this rule accordingly.

Buster Guzzardo
Vice Chairman, House Labor Committee
Acting Chairman, House Labor
Subcommittee on Oversight

9412#003

POTPOURRI

POTPOURRI

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

Retail Floristry Examination

The next retail floristry examination will be given January 23-27, 1995 at 9:30 a.m. at the State Police Training Academy Building, Room 9, Baton Rouge, LA. The deadline for sending application and fee is December 23, at 4:30 p.m. No applications will be accepted after December 23, 1994.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504)925-7772.

Any individual requesting special accommodations due to a disability should notify this office prior to December 23, 1994. If you have any questions, please call this office at (504)925-7772.

Bob Odom
Commissioner

9412#064

POTPOURRI

Department of Economic Development Office of Financial Institutions

Judicial Interest Rate for 1995

Pursuant to the authority granted by West's LSA-C.C. article 2924(B)(3), as amended by Act 774 of 1989 and Act 1090 of 1992, the Commissioner of Financial Institutions has determined the rate of judicial interest for the period beginning January 1, 1995 and ending December 31, 1995 to be 8.75 percent per annum, in accordance with the formula mandated by West's LSA-C.C. article 2924(B)(3).

The terms "prime rate" and "reference rate" shall be deemed synonymous for purposes of this calculation. Prime rate is the rate of interest established by a bank for its most favored corporate clients in commercial loan transactions.

The "prime rate" or "reference rate" for Chase Manhattan Bank, N.A., Chemical Bank, which acquired Manufacturers Hanover Trust Company of New York, (effective June 22, 1992), Morgan Guaranty Trust Company of New York, Bank of America National Trust and Savings Association, and Citibank, N.A., was increased to 7.75 percent at each institution on August 16, 1994 and has not changed since that date.

West's LSA-C.C. article 2924(3)(a) mandates that "the

effective judicial interest rate for the calendar year following the calculation date shall be one percentage point above the average prime or reference rate of the five financial institutions named in this Subparagraph or their successors."

The effective judicial interest rate for the calendar year beginning on January 1, 1995 shall be 8.75 percent per annum.

This calculation and its "publication in the Louisiana Register shall not be considered rulemaking, within the intendment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953", thus, neither a fiscal impact statement nor a "notice of intent" is required.

Larry L. Murray
Commissioner

9412#066

POTPOURRI

Department of Elections and Registration Commissioner of Elections

Voter Registration at Optional Registration Agencies

A hearing will be held on January 23, 1995, at the Department of Elections and Registration, 4888 Constitution Avenue, Baton Rouge, LA, at 10 a.m. to consider changes made to the proposed rule for voter registration at optional voter registration agencies as published in the *Louisiana Register*, Volume 20, Number 9, September 20, 1994.

Copies of the changes may be obtained from the Department of Elections and Registration, 4888 Constitution Avenue, from 8 a.m. to 4:30 p.m., Monday through Friday, or may be requested by mail by writing to the department at Box 14179, Baton Rouge, LA 70898-4179.

Jerry M. Fowler
Commissioner

9412#067

POTPOURRI

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

Breton National Wildlife Refuge Visibility Protection

The Department of Environmental Quality (DEQ), Office of Air Quality, Air Quality Division, has completed the triennial review of the State's Implementation Plan (SIP) for Visibility Protection of the Breton National Wildlife Refuge. The refuge is comprised of a chain of barrier islands approximately 30 miles off the southeast coast of Louisiana. The refuge has wilderness status, and is classified as a Class I Federal Area,

and as such, is afforded visibility protection. This triennial review of the SIP shows that the plan is adequate for preventing impairment of visibility.

The information used in the review included: air emission inventories of sources within 100 km distance of the refuge; Prevention of Significant Deterioration permit reviews which require an analysis of the impact of Class I areas from proposed projects; and consultation with the United States Department of the Interior, Fish and Wildlife Service, which serves as the Federal Land Manager for the refuge. This review concluded that at this time, no additional measures, beyond the current program, are necessary to protect visibility.

The triennial review, "Louisiana's Progress Toward Visibility Protection of the Breton National Wildlife Refuge," is available for public review at the Department of Environmental Quality main office, 7290 Bluebonnet Boulevard, Second Floor, Baton Rouge, LA and at the Southeast Regional Office, 3501 Chateau Boulevard, West Wing, Kenner, LA.

Written comments or questions may be submitted to Patricia Salvaggio, Office of Air Quality and Radiation Protection, Air Quality Division, Box 82135, Baton Rouge, LA 70884-2135. She may be reached by telephone at (504)765-0915.

Gustave Von Bodungen
Assistant Secretary

9412#070

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection

Redesignation of Pointe Coupee Parish to Ozone Attainment

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 a change in the State Implementation Plan for ozone abatement procedures has been initiated as follows:

Redesignation of Pointe Coupee Parish to ozone attainment status is being proposed by Louisiana. Pointe Coupee Parish was previously designated as serious. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the revised State Implementation Plan was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status.

A public hearing to receive comments on this proposed redesignation will be held at 7 p.m. on Wednesday, January 25, 1995, in the Pointe Coupee Parish Police Jury Meeting Room, 160 E. Main Street, New Roads, LA.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are also invited to submit written comments concerning the SIP change. Such comments should be submitted no later than February 1, 1995, to Annette Sharp, LDEQ, at the following

address: Air Quality Regulatory Division, Box 82135, Baton Rouge, LA, 70884-2135. She may be contacted at (504)765-0914. A copy of the SIP changes may be viewed from 8 a.m. to 4:30 p.m., Monday through Friday, at:

(1) DEQ Headquarters, Air Quality Regulatory Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA;

(2) State Library of Louisiana, the Louisiana Section, 760 North Third Street, Baton Rouge, LA; or

(3) DEQ Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

The redesignation package is also distributed to 25 other depository libraries throughout the state, which includes the East Baton Rouge Parish Library, 7711 Goodwood Boulevard, Baton Rouge, LA, the LSU Hill Memorial Library, Baton Rouge, LA, and the Southern University Law Library, Baton Rouge, LA. Please contact those libraries for viewing times.

Gus Von Bodungen
Assistant Secretary

9412#065

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Board Member Nominations

The Board of Veterinary Medicine announces that nominations for the position of board member will be taken by the Veterinary Medical Association at the winter meeting.

Interested persons should submit the names of nominees directly to that organization as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated.

The LVMA may be contacted at (504)344-7224.

Vikki Riggle
Executive Director

9412#069

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Examinations

The Board of Veterinary Medicine will administer the national and state examinations for licensure to practice veterinary medicine as follows:

Examination: National Board

Date: Second Tuesday in April

Deadline to Apply: Fourth Friday in February

Examination: Clinical Competency Test

Date: Second Wednesday in April

Deadline to Apply: Fourth Friday in February

Examination: State Board

Date: Fourth Tuesday in April

Deadline to Apply: Fourth Friday in February

Applications must be received on or before the deadline for each examination. Application packets may be obtained from the board office at (504)342-2176.

Vikki Riggle
Executive Director

9412#068

POTPOURRI

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

Fiscal Intermediary Services

In accordance with the requirements of R.S. 39:198D(5) the Department of Health and Hospitals has issued specifications for a solicitation for proposals on a contract for fiscal intermediary services to process claims of health care providers. Said specifications may be viewed or obtained by contacting Carol Simpson of the Bureau of Health Services Financing of the Department of Health and Hospitals, Box 91030, Baton Rouge, LA 70821-9030. She may also be contacted by telephone at (504)342-3855.

Rose V. Forrest
Secretary

9412#063

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