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THE UNIVERSITY OF CHICAGO

PH.D. THESIS

BY

NAME

DEPARTMENT

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Executive Orders

of Louisiana, at the Capitol, in the City of Baton Rouge, on the 18th day of July, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91-9

WHEREAS, the construction of Interstate 49 from Lafayette, Louisiana, to Shreveport, Louisiana, is nearing completion by the Department of Transportation and Development, State of Louisiana; and

WHEREAS, the right-of-way of I-49 has been acquired through a particularly scenic area of Louisiana; and

WHEREAS, it is to the benefit of the citizens of Louisiana and the traveling public to preserve the uniquely scenic beauty of the countryside which adjoins I-49; and

WHEREAS, the public has overwhelmingly voiced their desire to have this beauty preserved; and

WHEREAS, environmentally sensitive yet effective alternatives to billboards exist which can be utilized along I-49 to alert travelers to services and attractions; and

WHEREAS, erection of commercial billboards on undeveloped stretches of I-49 would offend its natural and scenic beauty and negate the desire of Louisiana citizens to recognize the significance of this route; and

WHEREAS, I-49 is currently being considered for inclusion in the National Scenic Highway Study and the construction of commercial billboards along I-49 before that determination would be improper and premature;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1. Executive Order No. BR 90-10 signed by me on July 27, 1990, is hereby revoked and rescinded in its entirety.

SECTION 2. The Louisiana Department of Transportation and Development shall not issue permits for the installation of commercial outdoor advertising signs along the I-49 right-of-way.

SECTION 3. DOTD shall immediately devise and implement a plan to aggressively accelerate and expand the installation of signage along I-49 to provide information to the motoring public, including but not limited to the use of "destination" signs, "logo" signs for food, gas and lodging, "supplemental" and "directional" signs to indicate points of interest.

SECTION 4. Provided, however, that the directional signs authorized in "Section 3" shall not exceed an overall height of 20 vertical feet from ground level and a limit of one such sign per attraction per direction of travel with a minimum distance of two linear miles between signs in accordance with existing federal regulations.

SECTION 5. Further, DOTD shall, to the maximum extent feasible, secure funding for the construction of safety rest areas dispensing tourist information along I-49 and proceed immediately to erect such facilities.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State

EXECUTIVE ORDER BR 91-10

WHEREAS, the governor of the state of Louisiana pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session has issued his executive order BR 88-35 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, which executive order includes the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1991 (the "1991 ceiling"); (ii) the procedure for obtaining an allocation of bonds under the 1991 ceiling; and (iii) a system of central record keeping for such allocations; and

WHEREAS, the parish of St. Charles has requested an allocation in the amount of \$50,000,000 from the 1991 ceiling to be used in connection with the financing of certain air and water pollution control facilities and/or sewage and solid waste disposal facilities (the "project") at Unit 3 (nuclear) of the Waterford Steam Electric Generating Station of Louisiana Power and Light Company, a Louisiana corporation (the "company"), located in St. Charles Parish, at Taft, Louisiana; and

WHEREAS, the governor has determined that the project serves a crucial need and provides an extraordinary benefit to the state of Louisiana and the parish of St. Charles; and

WHEREAS, it is the intent of the governor of the state of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order No. BR 88-35, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY BUDDY ROEMER, Governor of the State of Louisiana, as follows:

SECTION 1. That the bond issue described in this Section is hereby granted an allocation from the 1991 ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$50,000,000	parish of St. Charles	Louisiana Power and Light Company

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

SECTION 3. The allocation granted hereby shall be valid and in full force and effect through December 31, 1991, provided that such bonds are delivered to the initial purchasers thereof on or before December 31, 1991.

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

SECTION 5. That this executive order, to the extent conflicting with the provisions of Executive Order No. BR 88-35, supercedes and prevails over the provisions of such executive order.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 23rd day of July, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDUM

Office of the Governor
Division of Administration

POLICY AND PROCEDURE MEMORANDUM NO. 52 (Revised)

Subject: Request for Changes in Appropriation - Form BA-7
Effective Date: July 1, 1991
Authorization: R.S. 39.73

The Division of Administration, Office of Planning and Budget hereby amends Policy and Procedure Memorandum No. 52 as follows:

Title 4 ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 19. Request for Changes in Appropriation Form BA-7--PPM 52

§1901. Procedures

Pursuant to the above authority, in order to discharge my duty and responsibility as directed by the statutes, it is hereby ordered that all state budget units shall abide by the statute and the following rules and regulations.

A. All requests shall be fully documented to include the following information:

1. What is the source of funding (if other than General Fund [Direct])? Specifically identify any grant or public law and purposes of the funds, if applicable. A copy of any grant application and the notice of approved grant or appropriation must accompany the BA-7. What are the expenditure restrictions of the funds? Include the date the grant was applied for, the date approval from the federal granting authority was received, and the duration of the grant.

2. What is the financial impact in the current year and the next four fiscal years? That is, if the funds are being used to start a new program or enrich an ongoing program, what will the impact be in future years? Will the grant decline either in funds available or in ratio of participation?

3. What programmatic impact (positive or negative) will occur as a result of the approval of this request? In other words, who will benefit, how and to what extent? If expenditure authority is being moved from one program to another, what is the impact on the program giving up the expenditure authority? List performance indicators affected.

4. What strategy will be used in accomplishing your agency's mission and goals? Include your resource allocation plan (i.e. How, and on what, will money be spent?).

5. Will this action require additional personnel? Explain in detail.

Failure to answer all questions completely will be cause to return this document without action.

B. All requests for appropriation changes initiated after over-expenditures have been made will be summarily denied unless certification is made to the Division of Administration and the Joint Legislative Committee on the Budget, attesting that the change was of an emergency nature. Emergency is defined as being a condition detrimental to the protection of employees and/or the general public and to state property.

C. All requests shall also comply with the current appropriation bill restrictions.

AUTHORITY NOTE: Promulgated in accordance with Act 14, 1973, R.S. 39:7.

HISTORICAL NOTE: Revised by the Office of the Governor, Division of Administration, December 18, 1974, promulgated LR 1:132 (February 1975), amended LR 17: (August 1991).

FORM BA-7
Revised 7/91

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATION
OFFICE OF PLANNING AND BUDGET
REQUEST FOR CHANGES IN APPROPRIATION**

DEPARTMENT NAME: _____

DATE: _____

AGENCY NAME: _____

AGENCY BA-7 NO: _____

SCHEDULE NUMBER: _____

HEAD OF BUDGET UNIT: _____

TITLE: _____

OPB LOG NO.	BUDGETED 19__-19__		ADJUSTMENT (+)/(-)		REVISED 19__-19__	
CATEGORY OF MEANS OF FINANCING OR EXPENDITURE						
MEANS OF FINANCING						
GENERAL FUND BY:						
DIRECT						
INTERAGENCY TRANSFERS						
FEES & SELF-GENERATED						
STATUTORY DEDICATIONS						
INTERIM EMERGENCY BOARD						
FEDERAL						
TOTAL MEANS OF FINANCING						
EXPENDITURES BY PROGRAM	DOLLARS	POSITIONS	DOLLARS	POSITIONS	DOLLARS	POSITIONS
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
PROGRAM NAME:						
TOTAL						

FOR OPB USE ONLY
AGENDA NO.

Policy and Procedure Memorandum No. 52, Revised, requires that all Request for Changes in Appropriations be fully documented. At a minimum, the following questions and statements must be answered. Use Continuation Sheets as needed. FAILURE TO ANSWER ALL QUESTIONS COMPLETELY WILL BE CAUSE TO RETURN THIS DOCUMENT WITHOUT ACTION.

What is the source of funding (if other than General Fund (Direct))? Specifically identify any grant or public law and the purposes of the funds, if applicable. A copy of any grant application and the notice of approved grant or appropriation must accompany the BA-7. What are the expenditure restrictions of the funds?

What is the financial impact in the current year and the next four fiscal years?

MEANS OF FINANCING	CURRENT YEAR	YEAR 1	YEAR 2	YEAR 3	YEAR 4
GENERAL FUND BY:					
DIRECT					
INTERAGENCY TRANSFERS					
FEES & SELF-GENERATED					
STATUTORY DEDICATIONS					
INTERIM EMERGENCY BOARD					
FEDERAL					
TOTAL MEANS OF FINANCING					

What programmatic impact (positive or negative) will occur as a result of the approval of this request?

What strategy will be used in accomplishing your agency's mission and goals?

Will this action require additional personnel? Explain in detail.

Dennis Stine
Commissioner

Emergency Rules

DECLARATION OF EMERGENCY

Department of Civil Service

At its regular meeting on July 10, 1991 the Civil Service Commission adopted emergency rule 11.26(e) and (f) to be effective that same date. Such adoption is according to the provisions of Civil Service Rule 2.10(f).

This rule is proposed to restore the reservist to the same financial status he would have enjoyed under Civil Service rules if he had not been called to the Persian Gulf.

The emergency rule is as follows:

11.26 Military Leave

(a)...

(b)...

(c)...

(d)...

(e) A probationary or permanent employee, who is a member of a reserve component of the armed forces of the United States and is involuntarily called to active duty as a result of the August, 1990 Persian Gulf Crisis, and is released from satisfactory active military duty, upon furnishing appropriate official documents to his appointing authority;

1. shall be given, at his option, compensation in the amount of the difference between the military base pay and the state base pay (provided the military pay is less than the state pay), until separation from the military or return to work, for a maximum of 365 calendar days (this does not include reservists volunteering for an extension of duty), in which case the employee shall re-pay his appointing authority the value of annual or compensatory leave utilized while on active duty within 24 months from his return, or upon separation from state service, whichever comes first, and shall be re-credited such leave as it is re-paid;

2. and shall be allowed 15 working days per calendar year of military leave with pay;

3. and shall continue to accrue sick and annual leave on the same basis as though he had not been activated and be credited such leave and all emoluments upon return from active duty as though he had not been activated;

4. and shall be retained in either leave with pay or leave without pay status for the duration of the involuntary active duty;

5. and shall not be subject to separation for the duration of the resulting active duty, provided he returns to employment within 90 days after his release from active duty.

(f) A probationary or permanent employee, who was called to involuntary active duty as a result of the August, 1990 Persian Gulf Crisis, and resigned from state service, may, at his request, and within 90 days of his release from active duty, have his resignation rescinded and become eligible for the benefits of Subsection (e) of this rule.

This rule will be proposed for regular adoption at the Wednesday, September 11, 1991 commission meeting. The public hearing will be conducted at 8 a.m. on Wednesday,

September 11, 1991 in the second floor commission hearing room in the DOTD Annex Building at 1201 Capitol Access Road, Baton Rouge, LA.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall
Director

DECLARATION OF EMERGENCY

Department of Economic Development Real Estate Commission

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Real Estate Commission has adopted emergency revisions to the rules and regulations affecting escrow and trust accounts of Louisiana real estate licensees.

The purpose of this declaration of emergency, effective August 20, 1991 for 120 days, is to bring application procedure established in existing rules and regulations into compliance with impending state law.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate

Chapter 27. Escrow and Trust Account

§2701. Sales Escrow Account

Each resident broker who accepts any deposit on behalf of a client in connection with the sale of real estate shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all deposits received by a broker in connection with the sale of real estate shall be deposited in this account.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), LR 12:509 (August 1986), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:

§2703. Rental Trust Accounts

Each resident broker engaged in the collection of rental payments on behalf of clients shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all money collected as rental payments from or on behalf of clients shall be deposited into this account.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:

§2704. Rental Deposit Account

Effective January 1, 1992, each resident broker engaged in the collection of rental security deposits in connection with property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all money collected as rental security deposits from or on behalf of clients shall be deposited into this account.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17:

§2705. Account Affidavit

Upon the opening of any sales escrow checking account, rental trust checking account, or security deposit trust checking account a broker shall execute and submit to the commission an affidavit attesting to the existence, location, type and account number of such account, and authorizing and empowering the commission or its representatives to examine, inspect, and/or copy the records of the account. All such affidavits shall be submitted to and received by the commission within 10 days following the opening of any such accounts.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:

§2706. Non-Resident Brokers

Each non-resident broker shall open and maintain sales escrow accounts, rental trust accounts and rental deposit accounts as specified for resident brokers. The accounts may be opened and maintained at a financial institution in the state of Louisiana or in a financial institution in the state in which they reside.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17:

§2707. Branch Office Accounts

If a broker opens a branch office in a parish other than the parish in which his main office is located, the broker may open an additional sales escrow account, rental trust account, or rental deposit account in the parish in which the branch office is located.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:

§2711. Non-Interest Bearing Checking Accounts

Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), LR 12:827 (December 1986), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:

§2713. Personal Funds in Escrow and Trust Accounts

A. A broker may deposit and keep a sum not to exceed \$500 in each sales escrow account, rental trust account, and security deposit trust account from his personal funds, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts.

B. A broker may, in connection with property management activities, deposit personal funds in excess of \$500 into a rental trust account for the temporary, limited and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:

§2715. Withdrawal

No monies received and deposited into an escrow account or rental trust account shall be withdrawn for any purposes except:

* * *

9. to comply with the provisions of R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:

§2719. Account Closing

No sales escrow checking account, rental trust checking account, or security deposit account may be closed until such time as all deposits therein have been properly disbursed according to law. Every broker shall notify the commission in writing of the closing of any sales escrow account,

rental trust account or security deposit account within 10 days following the date the account is closed.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 9:317 (May 1983), LR 10:874 (November 1984), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:

§2723. Corporations and Partnerships

Every licensed corporation or partnership shall open and maintain sales escrow accounts, rental trust accounts and rental security deposit accounts as specified for resident and non-resident brokers. All funds received in any real estate transaction conducted by the corporation or partnership as a licensee shall be deposited into these accounts.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:

§2725. Transfer of Trust Funds on Sale or Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring or qualifying broker of the acquiring agency will advise the commission in writing of the name of the agency acquired and the anticipated date of the transfer of trust funds. The letter notifying the commission of the acquisition will specify the account numbers of the sales escrow accounts, rental trust accounts, or rental deposit accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency requesting that approval be granted for the transfer of funds will accompany the notification to the commission.

C. The transfer of funds shall not be accomplished until written approval has been granted by the commission in accordance with Section 2715.8 of this Chapter.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), amended LR 17:

Jane H. Moody
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Revised Interim Emergency Policy for Hiring Full-time/Part-time Noncertified School Personnel

The State Board of Elementary and Secondary Education, at its meeting of July 25, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953(B) and approved the following revised provisions of the Interim Emergency Policy for Hiring Full-time/Part-time Noncertified School Personnel.

Adoption as an emergency rule is necessary in order that local public school districts be allowed to fill vacant teaching positions with noncertified teachers under these provisions, when a certified teacher is not available. The effective date of this emergency rule is July 25, 1991.

INTERIM EMERGENCY POLICY FOR HIRING FULL-TIME/PART-TIME NONCERTIFIED SCHOOL PERSONNEL

In an effort to assist local education agencies experiencing extreme difficulty in providing certified personnel for the classroom, the following Interim Emergency Policy is proposed:

Full-time/part-time noncertified school personnel, excluding speech, language, and hearing specialists, may be employed by parishes having difficulty in employing certified persons in certain positions, provided that the following documentation is submitted to the Department of Education:

1. a signed affidavit by the local superintendent that the position could not be filled by a certified teacher;
 2. submission of names, educational background, subject matter and grade level being taught as an addendum to the Annual School Report; and
- Documentation kept on file in the LEA's Superintendent's/Personnel Office shall include:
1. copies of transcripts showing the degree earned;
 2. documentation that efforts for recruitment for certified teachers have been made (e.g. newspaper advertisements, letters, contacts with colleges, and so forth);
 3. documentation that the teacher is eligible for admission to a teacher education program.

In addition:

1. it is required that these teachers take the NTE at the earliest date that it is offered in their geographical area;
2. these individuals must have a minimum of a baccalaureate degree from a regionally accredited institution and be eligible for admission to a teacher education program;
3. to be re-employed under this policy, an individual must have earned at least six semester hours toward completion of a teacher education program or six semester hours appropriate to the area of the NTE (General Knowledge, Professional Knowledge, Communication Skills, Specialty Area) in which the score was not achieved; and
4. effective with the 1992-1993 school year, the total number of years a person may be employed according to the provisions of this policy, inclusive of experience prior to 1992-1993, is five years.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Practical Nursing Certification Requirements Amendment to Bulletin 746 - Part B Postsecondary

The State Board of Elementary and Secondary Education, at its meeting of July 25, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953.B and approved recommendations for applying the practical nursing certification requirements set by the State Board of Practical Nurse Examiners at their February, 1991 meeting. This is an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel - Part B - Postsecondary*. The complete text of this amendment appeared in the April 20, 1991 issue of the *Louisiana Register* as an emergency rule, and is re-adopted as an emergency rule in order to continue the policy until the rule becomes final. Effective date of this emergency rule is July 25, 1991.

13. Health Occupations - Practical Nursing Instructor:
Part time and extension

A. Education:*

- 1) A graduate of a three year diploma nursing program, or...
- 2) A graduate of a baccalaureate nursing program, and...

B. Licensing:

A valid license to practice as a registered nurse in the State of Louisiana, whose license has never been encumbered in any jurisdiction, and...

C. Board Approval:

Approval of the Louisiana State Board of Practical Nurse Examiners prior to certification, and...

D. Experience:*

1) Nurse Coordinator: Four years of experience in medical-surgical nursing or nursing education. At least one of these four years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse coordinator must have worked as a nurse for a minimum of six months full-time during the three years immediately preceding application for employment, or complete a six-week refresher course and/or successfully pass a board-approved competency examination, or...

2) Nurse Instructor: three years of experience in medical-surgical nursing or nursing education. At least one of these three years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse instructor must have worked as a nurse for a minimum of six months full-time during the three years immediately preceding application for employment or complete a six-week refresher course and/or successfully pass a board-approved competency examination, and...

No education degree in nursing or in any other field shall substitute for the medical-surgical component of either of the above.

NOTE: Nutrition Instructors in the Practical Nursing program may meet certification requirements with a degree in Home Economics and a minimum of 12 semester hours in Foods and/or Nutrition.

E. Certificate Terms:

When the applicant has met the requirements of A, B, C, and D, the applicant shall be issued a Temporary Vocational and Technical (V.T.) Certificate. This certificate shall remain valid as long as the applicant teaches a minimum of one course every two years. The professional vocational-technical industrial education (VTIE) courses shall NOT be required, but the applicant shall complete such teacher training as may be prescribed by the Postsecondary Vocational Education Bureau of the State Department of Education to improve competencies.

*1. Associate Degree Registered Nurses who have been employed in Med-Surg nursing for five or more years, at least one of these years being immediately prior to consideration of appointment to a faculty position.

2. Associate Degree Registered Nurses with prior LPN preparation and experience, with at least two years' experience in Med-Surg nursing as an Associate Degree Registered Nurse, at least one of these years being immediately prior to consideration of appointment to a faculty position.

Additionally: A Practical Nurse program with 50 percent or higher percentage of faculty with Associate Degree Registered Nurse preparation will be placed on provisional accreditation.

Programs on provisional accreditation will be reviewed at the end of each class before the next class can be admitted.

The waivers will be effective from February 1991 through January 1993. At that time the board will review the faculty requirements for further determination.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Department of Employment and Training Office of Labor

In accordance with R.S. 49:953(B), the Department of Employment and Training, Office of Labor, is exercising the emergency provision of the Administrative Procedure Act, to adopt the following rule amending the regulations of conditions under which minor labor may be used. The purpose of the amendment is to establish additional guidelines permitting the secretary of labor to issue waivers to the hour and time standards for minors under 16 years of age when employed in commercial motion pictures, films, or video productions on a permanent basis. With the absence of a waiver provision, economic benefits to the state are lost as film production companies avoid filming in Louisiana. The issuance of a waiver to the hours and time standards is allowed only under specific circumstances and the health, morals and safety of the minor will remain as essential consideration for the minor's employment.

EMERGENCY RULE

Title 40

LABOR AND EMPLOYMENT

Part VII. Regulations of Condition Under Which Minor Labor May Be Used

Chapter 1. Minimum Age Standards for Nonagricultural Employment

§103. Employment Standards for Minors Under 16 Years of Age

* * *

A.9. When employed in commercial motion picture, film or video productions:

a. Before 7 a.m. for studio production, 6 a.m. for location productions, and shall end no later than time specified below:

i. for minors under six years of age, 7 p.m.;

ii. For minors six years of age to 15 years of age, 8 p.m. on days preceding school days and 10 p.m. on days preceding non-school days;

b. Minors under six years of age shall not work more than six hours per day; minors six years of age to 15 years of age shall not work more than eight hours per day;

c. Minors shall receive a 12-hour rest break at the end of each work day, before the commencement of the next day of work;

d. Minors shall not be employed more than six consecutive days in any one week, nor more than 36 hours per week for minors under six years of age, nor more than 48 hours per week for minors six years of age to 15 years of age.

e. Applications for waivers for any exception to the foregoing provisions of this Paragraph 9 may be made to the secretary of the Department of Employment and Training.

f. The secretary of the Department of Employment and Training shall grant a waiver only under the following circumstances:

1. written acknowledgement that a waiver of the provisions established by the Screen Actors Guild has already been obtained;

2. written acknowledgement that the minor's parent(s), tutor, or custodian have been fully informed of the circumstances and have granted advance consent.

Phyllis Coleman Mouton
Secretary

DECLARATION OF EMERGENCY

**Office of the Governor
Department of Veterans Affairs**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the Department of Veterans Affairs adopts the following rules relative to the payment of a bonus to Louisiana citizens who were members of the Armed Forces or Coast Guard and served in the Desert Shield/Desert Storm Operation. In order to assure that the payments be made as expeditiously as possible, it was deemed necessary that the emergency rule making process be invoked and that payments be made commencing on September 16, 1991.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans Affairs

Subchapter A. Veterans Affairs Commission

§913. Desert Shield/Desert Storm Bonus Payments

A. Pursuant to the authority and provisions of Act 12 (Section 20-8xxx, Military Bonus Payments) of the 1991 Regular Session, a bonus in the amount of \$250 will be paid to

certain Louisiana citizens serving as members of the Armed Forces and Coast Guard in Operation Desert Shield/Desert Storm as authorized by the Act, the Louisiana Department of Veterans Affairs shall have the authority for the distribution of the bonuses authorized. The executive director, with the approval of the Veterans Affairs Commission, shall make such rules and regulations, not inconsistent herewith, as are necessary for the distribution of the bonus and for the proper administration of this Section.

B. Eligibility for the bonus will be restricted to include only those persons who are Louisiana citizens who served as members of the U.S. Armed Forces or Coast Guard in the Desert Shield/Desert Storm Theater of Operations as defined by Presidential Executive Order dated March 13, 1991, between the date of August 2, 1990, and the cease fire date of April 11, 1991, and received the Southwest Asia Service Medal.

C. In the event of death of an eligible recipient of causes unrelated to this service after earning entitlement to the authorized bonus prior to application for or payment of, certain survivors may receive the \$250 bonus in the following order:

1. unremarried widow; if no unremarried widow, to
2. minor child or children under 18 years of age, equally divided; or
3. if there is no unremarried widow or minor children under 18, then no bonus will be paid.

D. In the event an eligible recipient died as a result of the Operation Desert Shield/Desert Storm Conflict, certain survivors may receive a bonus in the amount of \$1,000 in the same order as listed in numbers 1 and 2 above.

E. No bonus as herein provided shall be paid to any serviceman or servicewoman, or to the widow or child of any such serviceman or servicewoman unless a claim therefor is filed in writing with the executive director of the Louisiana Department of Veterans Affairs on or before April 11, 1996.

AUTHORITY NOTE: Promulgated by Act 12, Section 20-8xxx, Military Bonus Payments, 1991 Regular Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 17:

Printice A. Darnell
Executive Director

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of Management and Finance
Division of Policy and Program Development**

The Department of Health and Hospitals, Office of Management and Finance, Division of Policy and Program Development, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953.B to adopt the following rule in order to implement without delay Section 2196(1) of Act 394 of the 1991 Regular Session of the Louisiana Legislature.

Emergency rulemaking is necessary to immediately provide financial assistance to small rural hospitals throughout the state and to provide access to community-based health care for low-income and rural populations now underserved in Louisiana.

Major provisions of Act 394 include: (1) the creation of a Primary Care Advisory Council; (2) grants up to \$75,000 for rural hospitals to increase access to emergency health services; (3) limited start-up funds up to \$150,000 to establish primary care health clinics to serve indigent and low-income persons; (4) physician salary subsidies, up to \$50,000, to match local funds to encourage primary care physicians to practice in health professional shortage areas; (5) matching funds for demonstration projects to establish new primary health services in multi-parish underserved rural areas; and (6) matching funds for federal grants to provide community-based health services to indigent or low-income persons.

This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Effective August 23, 1991, the Department of Health and Hospitals' Division of Policy and Program Development will accept letters of intent from small rural hospitals, defined herein, on the intended use of up to \$75,000 in state funds. Hospitals that are eligible to apply are public and private acute care hospitals licensed for 60 beds or less which have a service municipality with a population of 20,000 or less.

The purpose of the grants to small rural hospitals is to strengthen the capability of small rural hospitals to provide high quality emergency health services to indigent and low-income persons in rural areas, and the letter of intent should reflect how the funds requested will further this goal. All letters of intent must be received by the Department of Health and Hospitals' Division of Policy and Program Development, Box 1349, Baton Rouge, LA 70821-1349, by close of business September 30, 1991. Grant recipients will be required to maintain an audit trail verifying that any monies received under this grant program were in fact used to enhance emergency room services.

Letters of intent will not be held until October 1, 1991, for processing. Letters of intent will be processed according to receipt and awards issued accordingly.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

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

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

The bureau has amended the Medicaid standards for payment for skilled nursing, intermediate care I and intermediate care II levels of care to assure compliance with the Omnibus Budget Reconciliation Act of 1987, which became effective October 1, 1990. Emergency rulemaking is necessary to ensure compliance with mandatory federal law.

EMERGENCY RULE

Nursing homes participating in Medicaid (Title XIX) reimbursement shall be required to meet the following standards for payment of claims for nursing home services in

addition to the standards currently in effect:

1. the ratio of registered nurses to patients shall be 2:35 based on intermediate care patients;

2. the ratio of registered nurses to patients shall be 2:65 based on skilled patients;

3. nursing homes with a census of 101 or more shall have a full-time assistant Director of Nursing;

4. the Assistant Director of Nursing shall be a registered nurse unless a written waiver has been approved by the department; and

5. nursing homes shall have at least one Patient Activities Coordinator (PAC) per facility. An additional PAC per resident census in excess of 100 shall be required. All PAC employees shall be full-time or sufficient full-time equivalent employees shall be maintained to comply with these standards. Regardless of the number of PAC employees required, one full-time PAC shall be certified.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

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 the Individual and Family Grant (IFG) Program.

Emergency rulemaking is necessary because a disaster has been declared in certain areas of Louisiana and will be managed in accordance with the new regulations. Federal regulations as published in the *Federal Register* of Thursday, September 27, 1990, Vol. 55, No. 188 page 39520 mandate an October 1, 1990 implementation date. The new regulations increase the IFG Program grant amount.

RULE

The maximum grant amount in the IFG Program has been changed to \$11,000. The increase is based on a rise in the Consumer Price Index for all Urban Consumers of 5.6 percent for the prior 12-month period. The information was published by the U.S. Department of Labor. Each year the IFG grant amount fluctuates based on the Consumer Price Index for the prior 12-month period.

The dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone will change to \$7,000 building and \$4,000 contents for a homeowner, and \$11,000 contents for a renter.

May Nelson
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure

Act, R.S. 56:497, and the authority granted to the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission on May 2, 1991, the secretary of the department hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

The 1991 spring inshore shrimp season in Zone I, that portion of Louisiana's inshore waters from the Louisiana/Mississippi state line to South Pass of the Mississippi River, will close at 12:01 a.m. Friday, July 19, 1991.

The secretary finds that juvenile white shrimp have begun recruiting to these inshore areas and are present in both the department's fishery independent trawl samples and in the commercial catches in such numbers that the season closure is necessary.

A. Kell McInnis, III
Acting Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open shrimp seasons each year for all inside waters and pursuant to a resolution passed by the Wildlife and Fisheries Commission on July 9, 1991 which authorized the secretary of the department to set the opening of the Fall Inshore Shrimp Season if biological and technical data indicate the need, the secretary of the department does hereby set the 1991 Fall Inshore Shrimp Season to open in Shrimp Management Zone III at 6 a.m. on August 7, 1991.

The department's historical shrimp monitoring data and biological monitoring data indicate that the shrimp in Zone III at the time of the opening will be of harvestable size.

A. Kell McInnis, III
Acting Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

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

The hunting season for upland migratory birds during the 1991-92 hunting season shall be as follows:

MIGRATORY GAME BIRDS

Dove: Split Season, Statewide

Sept. 7-15

Oct. 19-Nov. 10

Dec. 7-Jan. 3

Daily bag limit 15, possession 30.

Shooting Hours: One-half hour before sunrise to sunset, except on the opening weekend of each split (Sept. 7-8, Oct. 19-20 and Dec. 7-8) when shooting hours will be 12 Noon to sunset.

Snipe: Nov. 9-Feb. 23 - daily bag limit 8, possession 16.

Woodcock: Nov. 28-Jan. 31 daily bag limit 5, possession 10.

Shooting hours for rail, gallinule, snipe and woodcock are one-half hour before sunrise to sunset.

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

The aforementioned season dates, bag limits and shooting hours will become effective on September 7, 1991 and extend through sunset on February 28, 1992.

Jimmy Jenkins
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act and pursuant to R.S. 56:497 and the authority granted to the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission on May 2, 1991, the secretary hereby finds that imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

A special five-day shrimp season will open at 6 p.m. July 26, 1991 and run until 6 p.m. July 30, 1991 in that portion of the inshore waters of Zone I known as Breton and Chandeleur Sound. The area which will open includes all waters within Breton and Chandeleur Sound as described in R.S. 56:406 which are classified as inshore waters by R.S. 56:495.

The five-day season is being opened to allow the harvest of brown shrimp in an area which has not shown any evidence of newly recruited white shrimp.

A. Kell McInnis III
Acting Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:325.3 which established an annual quota for spotted seatrout, the secretary of the Department of Wildlife and Fisheries, pursuant to a resolution passed by the Wildlife and Fisheries Commission on April 4, 1991 in Baton Rouge, hereby declares an emergency and adopts the following rule:

EMERGENCY RULE

Pursuant to R.S. 56:325.3 the commercial fishery for spotted seatrout is hereby closed until midnight, August 31, 1991, effective at midnight, Friday August 2, 1991.

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

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

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

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

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

A. Kell McInnis, III
Acting Secretary

Rules

RULE

Department of Economic Development Office of Commerce and Industry

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Economic Development, Office of Commerce and Industry adopted the following rule, LAC 13:1.2101-2111:

Title 13

ECONOMIC DEVELOPMENT

Part I. Office of Commerce and Industry

Subpart 1. Finance

Chapter 21. Environmental Criteria For Rating Tax Exemptions

§2101. Introduction

A. The following rules will be used as the formula to evaluate the environmental compliance of applicants for tax exemptions. The information required to apply the formula will be provided by the applicant as a part of the application. Statistics regarding payroll, man hours, and percentage of capital investments on pollution control equipment may be considered as confidential information in accordance with R.S. 30:2030 and/or R.S. 44:1-4. These rules, when applying to a renewal of a five-year Industrial Tax Exemption contract, will use data gathered prior to the beginning date of a renewal contract. This new data will be used to compute a new score which will determine the percentage of tax exemption to be considered for the renewal contract.

B. The formula starts at 50 points and adds the number of points from the environmental compliance record (maximum 25 points and emissions-per-job categories (maximum 25 points). Bonus points are available and may be used to offset any scores totaling less than 100 points. The total tax relief will be the same as the total score, with a maximum of 100 points. (i.e., If a facility receives 100 points, it will be considered for 100 percent of the tax relief applied for. If it gets 60 points, it will be considered for 60 percent of the tax relief applied for.) The environmental review score will be available to the applicant at any time, after compilation, by written request.

C. For the installation of a Department of Environmental Quality (DEQ) approved pollution control project, these rules do not apply.

D. The jobs tax credit, in the Enterprise Zone Program (R.S. 51:1787), will not be affected by these rules.

E. Definition of Terms Used in the Rules

1. *Site* - a continuous piece of land over which a company's ownership extends.

2. *Plant* - a production unit (i.e., an ethylene production unit = an ethylene plant)

3. *Facility* - all production units and support units on a site belonging to an applicant.

4. *Applicant* - any business/company/organization that submits an application for a tax exemption, credit or refund, for a specific facility.

5. *Support unit* - equipment that is used on the site other than a plan (i.e., instrument air unit, control house, maintenance unit).

6. *Criteria air pollutants* - are NO_x, SO₂, CO, VOC's, Lead, and Particulates under 10 microns.

7. *TRI* - is the Toxic Chemical Release Inventory published by the United States Environmental Protection Agency, which lists the toxic chemicals defined in §313 of the Emergency Planning and Community Right-to-Know Act.

8. *Totally Enclosed Treatment Facility* - is a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment.

9. *Cogeneration* - is the production of electricity and

process steam from the same fuel source.

10. *Full-Time Job or Equivalent* - 2,080 actual man hours worked in one year (12-month period).

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3, 1987/307 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17: (August 1991).

§2103. Compliance Records

A. The environmental compliance record considered (25 points maximum) will be facility specific federal and state final penalties, except when the Board of Commerce and Industry and the governor, in their unfettered discretion, consider it to be in the state's best interest to use a company's complete environmental record.

B. An environmental compliance history, starting January 1, 1990, will be used. After January 1, 1995 a five-year compliance history will be utilized on all applications.

C. Point deductions for first year environmental violations which go through adjudication will be as follows:

1. one point deduction for violations with fines under \$3,000;
2. five point deduction for violations with fines between \$3,000 to \$10,000;
3. ten point deduction for violations with fines between \$10,000 to \$25,000;
4. fifteen point deduction for violations with fines in excess of \$25,000;
5. twenty point deduction for criminal felony violations;
6. the age of the violation will be calculated from the date of the application. The older the violation the lower the deduction. Deductions will be weighted as follows:

- a. Year 1: 100 percent
- b. Year 2: 80 percent
- c. Year 3: 60 percent
- d. Year 4: 40 percent
- e. Year 5: 20 percent
- f. Year 6: 0 percent

D. Equivalent violations, voluntarily settled with the DEQ and/or EPA, prior to an adjudicatory hearing, will incur one-half of the point deductions in §2103.C.

E. Only those violations that result in pollution or threat to the environment will be counted in scoring the compliance record of a facility.

F. Compliance history and record is associated with a facility at a given site. Transfer of ownership does not sever that relationship nor does it obviate responsibility of the new owner.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3, 1987/307 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17: (August 1991).

§2105. Emissions-per-job

A. This is a category using total credited emissions divided by the total job equivalents supported by the facility. The job equivalents data will consist of the on site facility work force (permanent full-time, full-time construction equivalents, and full-time contract equivalents), adjusted in terms of payroll equivalent. The adjusted jobs factor is computed by dividing the annual average facility payroll by a derived average earnings per job for Louisiana workers, equal to \$25,000. A ratio (emissions-per-job) is created between the total number of job equivalents existing at a facility and a composite emissions number which combines the total TRI data, criteria air pollutants (added in at 10 percent of the total except for lead which is added in at 100 percent) and accidental toxic releases. Criteria air emissions from cogeneration facilities will not be added to the emissions total used in this calculation. The following point schedule will apply:

POUNDS OF EMISSIONS PER JOB	POINTS RECEIVED
0 - 500	25
501 - 1,000	20
1,001 - 2,500	15
2,501 - 5,000	10
5,001 - 10,000	5
OVER 10,001	0

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3, 1987/307 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17: (August 1991).

§2107. Bonus Points Categories

There are five bonus categories, which have a possible combined total of 55 points, that can be applied to final scores of less than 100. Bonus points are used as an incentive to reduce emissions, develop recycling systems and/or use recycled materials, diversify the state's economic base and locate facilities in parishes with high unemployment rates.

1. Emission Reductions (15 points maximum): Up to 15 bonus points may be added to an application if the applying facility has a DEQ approved emissions reduction plan. To be eligible for emission reduction points, a facility must reduce its overall emissions by an average of five percent per year for each year the contract is in effect. One bonus point will be given for each acceptable two percent per year reduction in the composite TRI and criteria air emissions over the contract period, as compared to the year preceding the application. Any facility submitting applications prior to July 1, 1992 shall also be prorated additional bonus points for reductions to July 1, 1989 (based on 1988 SARA Title III emissions data). Only net reductions in TRI and criteria air pollutants will be considered.

One bonus point will be given for each five percent annualized reductions in DEQ approved hazardous and industrial solid waste generated, excluding office trash, occurring in the five-year contract period. To be eligible for the waste reduction bonus points a facility must reduce its overall hazardous and industrial solid waste by an average of five

percent per year. At the end of the five years upon submission of renewal applications, facilities that do not meet their emissions reduction plan will not be eligible for bonus points in this category.

2. Recycling (5 points maximum): Bonus points will be available to facilities which install a closed loop recycling system or use recyclable materials. One bonus point will be given for every one percent of recycled hazardous waste material substituted in the input throughput by a closed loop recycling system, or one bonus point will be given for each five percent of recycled total throughput material, purchased outside of the facility and used by the facility, or any combination thereof.

3. Recycling Companies or Manufactured Consumer Products Bonus (10 points maximum): Ten bonus points will be available to companies whose predominant activity is recycling, or using bulk materials produced in Louisiana for manufacturing "end use" products such as plastic bags. For those facilities whose recycling represents 50 percent or more of their income, one bonus point will be given for each 10 percent of gross income generated by recycled materials. For those facilities that derive 50 percent or more of their income by using Louisiana produced bulk materials to make "end use" products one bonus point will be given for each 10 percent of gross income generated from such activity.

4. New Jobs for High Unemployment Areas (15 points maximum): Up to fifteen bonus points will be given to projects which create at least one new full-time equivalent job per \$30,000 in tax relief in parishes that have an unemployment rate one or more percent above the state's average, as indicated in the current January issue of the *Louisiana Labor Market Information* publication, prior to receipt of the Advance Notification form. Two bonus points will be given for each one percent above the state's revised unemployment rate. A facility located in a parish whose unemployment rate is three percentage points above the state's rate will be eligible for six bonus points. A facility in a parish whose unemployment rate is seven and one half percent above the state's rate would be eligible for all 15 points.

5. Diversification (10 points maximum): Bonus points will be available to industries which diversify the state's economy. In this category the Department of Economic Development may recommend bonus points be given to industries not heavily represented in Louisiana which are low- or non-polluting (produce emissions-per-job under 500) and create high quality job opportunities (high paying, high skilled jobs). Louisiana is particularly interested in attracting industries which add significant value to Louisiana's renewable natural resources and/or take advantage of the state's unique assets in science and technology. Under special circumstances, diversification points may be given to industries which do not meet these qualifications, should they locate in a section of the state where their type of business is unique and special.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3, 1987/307 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17: (August 1991).

§2109. Restrictions

A. Tax exemptions will be reduced by 50 percent for any facility whose total product includes more than 20 percent banned materials or materials designated to be banned, by the United States Environmental Protection Agency. No tax exemption will be granted for any project which will produce a banned product.

B. No tax exemptions will be given to a facility whose net import of hazardous waste from out of state is more than 15 percent of the hazardous waste which it disposes or incinerates in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3, 1987/307 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17: (August 1991).

§2111. Exceptions

A. The governor and the Board of Commerce and Industry shall have an unfettered discretion to grant, deny or modify any tax exemption application. Certain environmental concerns may trigger an in-depth environmental study by the Department of Environmental Quality in order to offer the Board of Commerce and Industry and the governor better information from which to make a decision. The following are some of the conditions which may trigger a full environmental review:

1. any facility with compliance deductions of greater than 25 points or a history of multiple violations;

2. any facility with proven groundwater or habitat contamination;

3. companies which do not follow nationally accepted environmental standards;

4. facilities which have had major catastrophes where they were found negligent (such as explosions, fires, large spills, etc.);

5. facilities where environmental problems have resulted in fatalities.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21 (F); Acts 1985/1008 R.S. 33:4702(H); Acts 1966/12, 1985/3, 1987/307 1990/783, R.S. 47:3201-3206; Acts 1981/901 1990/1069 R.S. 51:1781-1787; Acts 1990/480 R.S. 47:1121-1128; Acts 1982/733 R.S. 47:4301-4305; Article VII, Part 2, Section 21(H) and Acts 1990/503, 1990/1104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17: (August 1991).

Paul Adams
Secretary

RULE

Board of Elementary and Secondary Education

Bulletin 741 - Standard 2.090.06 (Computer Literacy)

The Board of Elementary and Secondary Education, pursuant to notice of intent published May 20, 1991 in the *Louisiana Register* and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendment to Bulletin 741,
Louisiana Administrators' Handbook

2.090.06 By completion of the eighth grade, students shall have received the equivalent of one semester of instruction in computer literacy.

School systems shall implement the standard prior to the 1993-94 school year. Each school system shall determine the grade level and the subject area in which computer literacy shall be taught.

The equivalent of one semester of instruction in computer literacy is determined as follows:

1) students successfully pass a state proficiency examination in computer literacy prior to entry into the eighth grade (Each local system shall determine the grade or grade levels for the administration of the examination).

OR

2) students receive a minimum of 150 minutes of instruction per week in computer literacy for one semester. (This option does not prohibit a school from rotating the daily schedule to fulfill the aggregate time requirements.)

Elementary certification is required for teachers of students meeting the requirement via a proficiency examination. Computer literacy certification is required for teachers of students meeting the requirement via a semester course.

Those schools who implement the standard prior to the 1992-93 school year shall award the affected elementary students one-half unit of high school credit following the procedures outlined in standard numbers 2.102.01-2.102.02. These students include the incoming freshmen class for the 1992-93 school year only.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 17: (August 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published May 20, 1991 in the *Louisiana Register*, and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, Part B - Postsecondary

Part III. Certification Requirements for Postsecondary Vocational and Technical Instructional Personnel

13. Health Occupations - Practical Nursing Instructor: Part Time and Extension (See Emergency Rule Section of the April, 1991 issue of the *Louisiana Register* for complete text of rule.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1993.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 17: (August 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to Bulletin 741, Standard 6.016.15 (Nonpublic)

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published May 20, 1991 and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Amendment to Bulletin 741
Louisiana School Administrators' Handbook

6.016.15 All members of the instructional staff, pre-kindergarten through 12, shall have received a bachelor's degree from an accredited institution. They shall also have completed a minimum of 12 semester hours of professional education courses. A beginning teacher shall have a two-year period in which to meet this 12 semester-hour standard. The teacher shall be required to have a certificate or college major in the field of work for which the teacher is responsible during one half or more of the school day or must have earned the required specific specialized academic courses as described in Bulletin 746, *Louisiana Standards for State Certification of School Personnel*. A teacher may work in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area (Exception may be made for teachers in trade and industrial education classes.).

Teachers in the pre-kindergarten class shall be qualified in either elementary, kindergarten, nursery school, or have 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Teachers in the kindergarten class shall be qualified in either elementary, kindergarten, or have 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

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

HISTORICAL NOTE: Promulgated by the Department

of Education, Board of Elementary and Secondary Education, LR 17: (August 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Addendum to Bulletin 741 - Part B
State Test Security Policy

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published May 20, 1991, and under the authority contained in the Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Addendum to Bulletin 741
Part B, State Test Security Policy
(Nonpublic School Standards)

See May, 1991 issue of the *Louisiana Register* for complete text of policy.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 17: (August 1991).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Louisiana Program Plan for the Administration of Vocational Education, FY 92-94

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published May 20, 1991 in the *Louisiana Register*, and under the authority contained in the State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations and State Plans

§939. Vocational Education State Plan

A. The Louisiana Program Plan for the Administration of Vocational Education FY 92-94 is adopted. This Plan meets the intent of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 which includes the use of a combination Pell Grant and JTPA formula. The plan contains definitions, objectives, state board priorities, and planned use of federal funds. Fiscal control and accounting procedures are given as well as provisions for program evaluation. Assurance statements are provided

as required by federal law. Duties and functions of the State Council on Vocational Education are given.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 17: (August 1991).

This Program Plan may be seen in its entirety in the Office of the State Register, the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, or in the Office of Vocational Education located in the Education Building.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

ECIA Chapter I FY-92
Migrant Education State Plan

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published May 20, 1991 and under the authority contained in the State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

§933. Migrant Education State Plan

A. The ECIA Chapter I FY-92 Migrant Education State Plan is adopted. The FY-92 State Plan was written according to instructions provided by the Office of Migrant Education.

AUTHORITY NOTE: Promulgated in accordance with P.L. 100-297; R.S. 17:7(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 17: (August 1991).

The State Plan may be seen in its entirety in the Office of the State Register, the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, or in the Bureau of Migrant Education at 654 Main Street, Baton Rouge, LA.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

State Plan for the Nutrition
Education and Training Program, FY 91

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent pub-

lished May 20, 1991 and under the authority contained in the State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

§935. Nutrition Education State Plan

A. The State Plan for the Nutrition Education and Training Program, FY-91 is adopted as amended.

AUTHORITY NOTE: Promulgated in accordance with P.L. 95-166; R.S. 17:7(3); R.S. 17:193.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 17: (August 1991).

These amendments were also adopted as an emergency rule and printed in full in the April, 1991 issue of the *Louisiana Register*.

Carole Wallin
Executive Director

RULE

**Department of Employment and Training
Office of Worker's Compensation**

Pursuant to Louisiana Revised Statutes 49:950 and 23:1081(9), the Department of Employment and Training, Office of Worker's Compensation, hereby adopts rules regarding drug testing of employees who are involved in job-related accidents. (LAC 40:I.Chapter 15).

Title 40

LABOR AND EMPLOYMENT

Part 1. Worker's Compensation Administration

Chapter 15. Drug Testing Programs in Job-Related Accident Cases

§1501. Introduction

A. The following represents the text of the Office of Worker's Compensation Administration's scientific and technical guidelines for accident-related drug testing programs, as directed by Act 454 of the Regular Session of 1989. These guidelines address the mandatory scientific and technical requirements of drug testing protocols, including: collection of specimens, chain of custody and laboratory analysis.

1. Laboratories may not deviate from the provisions of these guidelines without the written approval of the director of the Office of Worker's Compensation Administration, or his designee.

2. These guidelines are to be effective immediately upon promulgation. Laboratories currently operating drug testing programs are to bring their programs into compliance within 180 days of promulgation.

3. The director of the Office of Worker's Compensation Administration or his designee may routinely update these guidelines for the purpose of conforming them to advances in technology or providing additional guidance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensa-

tion, LR 17: (August 1991).

§1503. Scientific and Technical Requirements

A. Compensation shall not be allowed to the employee who receives personal injury from a job-related accident if the injury was caused by the employee's intoxication. Compensation will not be precluded, however, where the intoxication results from activities which were in pursuit of the employer's interest or in which the employer procured the intoxicating beverage or substance and encouraged its use during the employee's work hours. When an employee receives personal injury from an accident arising out of and in the course of his employment, his employer may test the employee for alcohol, and for any drug identified in Schedules I, II, III, IV or V of 21 U.S.C. 812.

B. Definitions

1. **INTRALABORATORY CHAIN OF CUSTODY:** Procedures used by the laboratory to maintain control and accountability from the receipt of specimens until testing is completed, results reported, and while specimens are in storage.

2. **INITIAL TEST:** A sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration.

3. **CONFIRMATORY TEST:** A second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmatory test must be different in technique and chemical principle from that of the initial test procedure to ensure reliability and accuracy. (At this time gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method. Gas chromatography is authorized for confirmation of alcohol (ethanol) concentrations in specimens.)

4. **ALiquOT:** A portion of a specimen used for testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (August 1991).

§1505. Specimen Collection Procedures

A. Collection Site

1. The collection site is a place where individuals present themselves for the purpose of providing urine, blood, breath or other specimens to be analyzed for abuse of drugs, including alcohol. The site must possess all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and transportation (shipping) of specimens to a drug testing laboratory.

2. Procedures must provide for the collection site to be secure. Proper chain of custody procedures must be executed by collectors when handling specimens. The handling and transportation of specimens from one authorized individual or place to another must always be accomplished through the use of chain of custody procedures.

B. Collection Procedures

1. Procedures for providing specimens must allow reasonable privacy but may require a witness to prevent substitutions, contamination or adulteration of the specimen to be provided. Employers must take precautions to ensure that a specimen has not been adulterated, contaminated or substituted during the collection procedure and that all information on the collection container and in the chain of custody form can be identified as belonging to a given individual. To en-

sure that unadulterated specimens are obtained, the following procedures outline the minimum precautions that shall be taken during the collection of specimens, in noncritical, ambulatory accident related testing.

a. At the collection site, if the specimen to be collected is urine, toilet bluing agents shall be placed in the toilet tanks, wherever possible, so that the reservoir of water in the toilet bowl always remains blue. The possibility of adulteration, substitution or contamination from other sources of water (e.g. shower, sink, etc.) in the enclosure where urination occurs should be prevented whenever possible.

b. Upon arrival at the collection site, the collector shall request the individual to present some type of photo identification. If the individual does not have proper identification, this shall be noted on the chain of custody form.

c. The collector shall ask the individual to remove any unnecessary outer garments (e.g., coat, jacket) that might conceal items or substances that could be used to tamper with or adulterate his/her specimen. Also, all personal belongings (e.g. purse, briefcase) must remain with the outer garments; the individual may, however, retain his/her wallet. The collector shall note any unusual behavior or appearance.

d. After washing his/her hands, the individual shall remain in the presence of the collector and not have access to water fountains, faucets, soap dispensers, or cleaning agents.

e. In a non-witnessed collection, the individual may provide his/her specimen in the privacy of a stall, or otherwise partitioned area that allows for individual privacy. The collector shall note any unusual behavior by the individual.

f. After the specimen has been provided and submitted to the collector, the individual should be allowed to wash his/her hands.

g. If the collection is non-witnessed, immediately after collection, the collector shall measure the temperature of the specimen and conduct an inspection to determine the specimen's color and signs of contaminants. Any unusual findings resulting from the inspection must be included on the chain of custody form. If the temperature of the specimen is outside the range of 32.5 - 37.7°C / 90.5 - 99.8°F, this gives rise to reasonable suspicion of adulteration/substitution, and other specimen should be collected, and both specimens shall be properly labeled and forwarded to the laboratory.

h. Both the individual being tested and the collector should keep the specimen in view at all times prior to its being sealed and labeled. If the specimen is transferred to a second container, the collector shall request the individual to observe the transfer of the specimen and the placement of a tamperproof seal over the container cap and down the sides of the container. The collector will place the identification label securely on the container.

i. The identification label should contain the date, employee's name, and any other identifying information provided/required by the employer. The tested individual shall initial the label on the specimen container. If the individual refuses to initial the label, this fact must be noted by the collector on the chain of custody form.

j. The collector shall complete the appropriate chain of custody form. The individual shall be asked to read and sign a certification statement regarding his/her specimen and be given an opportunity to provide notification of any information which the individual considers relevant to the test, including identification of currently or recently used prescription or

nonprescription drugs, or other relevant medical information.

k. After the above procedures, the specimen and chain of custody form are now ready for shipment. If the specimen is not immediately prepared for shipment, it must be appropriately secured during temporary storage.

l. In the event blood is required, it should be collected in a tube containing sodium fluoride as a preservative. To insure no adulteration of the blood specimen, alcohol shall not be used as a disinfectant, but betadine, or its nonalcoholic equivalent, shall be used.

2. NOTE: During the performance of any part of the chain of custody procedures, it is essential that the specimen and custody documents be under the control of the involved collector.

a. If the collector must leave his/her work station momentarily, the specimen and custody form must be taken with him/her, or must be secured. After the collector returns to the work station, the custody process will continue. If the collector is leaving for an extended period of time, he/she should package the specimen for mailing prior to leaving the site.

b. If the specimen is to be collected from a critical nonambulatory or unconscious employee, the collection procedures shall be left to the discretion of the treating medical provider, and shall reasonably preclude adulteration, contamination or substitution. After the patient's condition is stabilized and the patient is conscious, he/she shall be asked to read and sign a certification statement regarding his/her specimen, and be given an opportunity to provide notification of any information which the individual considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant medical information.

C. Collection Control. Collectors shall always attempt to have the specimen or specimen container within sight before and after the collection. The containers shall be tightly capped, properly sealed, and labeled. A chain of custody form shall be utilized for maintaining control and accountability from point of collection to final disposition of specimens. With each transfer of possession, the chain of custody form shall be dated, signed by the individual releasing the specimen, signed by the individual accepting the specimen, and shall note the purpose for transferring possession. Every effort should be made to minimize the number of persons handling specimens.

D. Transportation to Laboratory. After collection of specimens, collectors shall arrange to ship the specimens to the drug testing laboratory. The specimens shall be placed in appropriate containers (specimen boxes or padded mailers) that are securely sealed to eliminate the possibility of tampering. Collectors shall sign and date across the tape sealing the containers and ensure that the chain of custody documentation is attached to each sealed container. An outer mailing wrapper shall be placed around each sealed container. Specimens may be delivered to the drug testing laboratory using either the United State Postal Service, commercial air freight, air express, or may be handcarried. It is unnecessary to send specimens by registered mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (August 1991).

§1507. Laboratory Analysis Procedures

A. Receiving/Preparation

1. The laboratory must be secured at all times; procedures to control access by unauthorized personnel shall be in place. Upon receipt of specimens, accession personnel shall inspect packages for evidence of possible tampering and compare information on specimen containers with that on chain of custody forms. Any discrepancies shall be properly noted and described. Any direct evidence of tampering shall be reported immediately to the employer and shall also be noted on the chain of custody form which must accompany all specimens during laboratory possession.

2. Specimen containers and original chain of custody forms will normally be retained within the accession area until all analyses have been completed. Aliquots and intralaboratory chain of custody forms shall be used by laboratory personnel for conducting the initial and confirmatory tests.

B. Initial Test. If the initial drug test is negative, there shall be no confirmation test. The initial testing shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine usage of these drugs or classes or drugs:

	Initial Test Level (ng/ml)
Marijuana metabolite	50
Cocaine metabolites	300
Morphine/codeine	300
Phencyclidine	25
Amphetamines/Methamphetamines	1000
Alcohol/ethanol	.05 gram %/ml

1. These test levels are subject to change by the Office of Worker's Compensation, as advances in technology or other considerations may permit identification and quantification of these substances at lower concentrations.

2. The laboratory will use scientifically accepted initial cutoff levels when screening specimens for other drugs in 21 U.S.C. 812, Schedules I, II, III, IV and V.

3. Some specimens may be subjected to initial testing by methods other than immunoassays, where the latter are unavailable for the detection of specific drugs of special concern. These methods are thin layer, high pressure liquid, and/or gas chromatography. Alternate initial test methods and testing levels shall be submitted for written approval to the Director of the Office of Worker's Compensation, or his designee.

C. Confirmatory Test. All specimens identified as positive on the initial test shall be confirmed using gas chromatography for alcohol (ethanol) and gas chromatography/mass spectrometry (GC/MS) techniques for drugs in 21 U.S.C. 812, Schedules I, II, III, IV and V at the following cutoff values:

	Confirmatory Test Level (ng/ml)
Marijuana metabolite*	10
Cocaine metabolites**	150
Morphine/Codeine	150
Phencyclidine	25
Amphetamines	300

*Delta-9-tetrahydrocannabinol-9-carboxylic acid

**Benzoylcegonine

1. These test levels are subject to change by the Office of Worker's Compensation as advances in technology or other considerations may permit identification and quantifica-

tion of these substances at lower concentrations.

2. Confirmation methods and levels for other drugs tested shall be submitted by the employer to the Director of the Office of Worker's Compensation, or his designee, for approval. In the absence of an accepted quantitative GC/MS assay procedure, preference will be given to a confirmation of qualitative identification by means of full-scan GC/MS analysis and quantification by an alternate chromatographic method. All methods shall meet commonly accepted analytical standards.

3. Proper chain of custody controls shall always be enforced during confirmation testing. Authorized confirmation technicians shall sign the chain of custody forms and be responsible for each specimen to be tested. The laboratory shall include sufficient safeguards to ensure that unauthorized personnel are prevented from gaining access to the confirmation laboratory.

D. Reporting Results

1. Test results shall be reported to the employer within an average of five working days of receipt of the specimens. The report should contain the specimen number assigned by the submitting employer, the drug testing laboratory accession number, and results of the drug tests. All specimens negative on the initial test or negative on the confirmatory test shall be reported as negative. Only specimens confirmed positive shall be reported positive for a specific drug. Results may be transmitted to the employer by various electronic means (e.g., teleprinter, facsimile, or computer) in a manner consistent with maintaining confidentiality. It is impermissible to provide results verbally by telephone. A certified copy of the original chain of custody form, signed by the laboratory director or laboratory certifying officer, shall be sent to the employer. Certified copies of all analytical results shall be available from the laboratory when requested by appropriate authority.

2. All records pertaining to a given specimen shall be retained by the drug testing laboratory for a minimum of two years.

E. Long-Term Storage. Specimens confirmed positive shall be retained and placed in properly secured long-term frozen storage for at least 365 days. Within this 365-day period, an employer, employee, or the director of the Office of Worker's Compensation Administration may request the laboratory to retain the specimen for additional periods of time. This ensures that the specimen will be available for a possible retest during any administrative or legal proceeding. If the laboratory does not receive a request to retain the specimen during the initial 365-day period, the specimen may be discarded.

F. Retesting Specimens. Should specimens reanalysis be required as a result of challenge or litigation, the quantitation of a drug or metabolite in a specimen may not be subject to the same testing level criteria that were used during the original analysis; some analytes deteriorate or are lost during freezing and/or storage.

G. Subcontractors. The drug testing laboratory shall perform all work with its own personnel and equipment, unless otherwise authorized by the employer or director of the Office of Worker's Compensation Administration. Subcontractors shall follow all procedures and regulations as set out in these rules.

H. Laboratory Facilities. Laboratories must comply with applicable provisions of any state licensure require-

ments. Laboratories must be able to perform, at the same facility, screening and/or confirmation tests for each drug or metabolite for which service is offered.

I. Laboratory Personnel. The scientific director of the drug testing laboratory shall meet the following criteria. He or she must hold a B.S. in pharmacology, toxicology, or analytical chemistry and have at least two years experience in analytical toxicology (the analysis of biological materials for drugs of abuse) and appropriate training and/or forensic applications of analytic toxicology (court testimony, research and publications in analytic toxicology of drug abuse, etc.). The director is responsible for ensuring that there are sufficient personnel with adequate training and experience to supervise and conduct the work of the drug testing laboratory.

2. A key individual in the laboratory is the certifying scientist (who may also be the laboratory scientific director) this individual reviews the standards, control specimens, and quality control of the data, together with the screening and confirmation test results. After having assured that all results are acceptable, this individual certifies the test results. The certifying scientist must have sound training in the sciences, specific training in the theory and practice of the procedures used, including the recognition of aberrant results, and familiarity with quality control procedures.

3. Supervisors of analysts must possess a B.S. degree in chemistry, or at least the education and experience comparable to a medical technologist certified by the American Society of Clinical Pathologists, MT(ASCP), or its equivalent. These individuals, also, must have training in the theory and practice of the procedures used, and understanding of quality control concepts. Periodic verification of their skills must be documented. Other technicians or nontechnical staff must possess the necessary training and skills for the task assigned. Inservice continuing education programs to meet the needs of all laboratory personnel are desirable. Personnel files must include: resumé of training and experience, certification or license, if any; references; job descriptions; health records; records of performance evaluation and advancement; incident reports; and results of tests for color blindness.

4. Laboratory screening personnel performing initial tests shall comply with personnel requirements to provide reasonable assurance of accuracy of test results.

J. Quality Assurance and Quality Control. Drug testing laboratories shall have a quality assurance program which encompasses all aspects of the testing process: specimen acquisition, chain of custody, security, and reporting of results, in addition to the screening and confirmation of analytical procedures. Quality control procedures will be designed, implemented, and reviewed to monitor the conduct of each step of the process.

K. Documentation. Documentation of all aspects of the testing process must be available. This documentation will be maintained for at least two years and shall include: personnel files on analysts, supervisors, directors, and all individuals authorized to have access to specimens; chain of custody documents; quality assurance/quality control records; all test data; reports; performance records on proficiency testing; performance records on accreditation inspections; and hard copies of computer-generated data.

L. Reports. All positive test results, including screening, confirmation, and quality control data must be reviewed by the certifying scientist or laboratory director before a test

result is certified as accurate. The report shall identify the drugs/metabolites tested for, whether positive or negative, and the threshold concentration for each.

M. Judicial Proceedings. The laboratory must have qualified personnel available to testify in an administrative or legal proceeding against an employee which is based on a positive drug or alcohol result reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (August 1991).

§1509. Reporting and Review of Results

A. An essential part of the drug testing program is the final review of results. A positive test result does not automatically identify an employee as a drug abuser. A Medical Review Officer (MRO) with a detailed knowledge of possible alternate medical explanations must be involved in the review process.

1. "Medical Review Officer" means a licensed physician responsible for receiving laboratory results generated by employer or testing entities' drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his medical history and any other relevant biomedical information. The role of the MRO is to review and interpret positive test results obtained through the Office's testing program. In the conduct of this responsibility, the MRO should undertake the examination of alternate medical explanations for a positive test result. This action could include conducting of employee medical interviews, review of employee medical history, or the review of any other relevant biomedical factors.

2. The MRO is required to review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. After the MRO has reviewed the pertinent information and the laboratory assessment is verified, the results are to be forwarded to the employer and the Office of Worker's Compensation. Should any questions arise as to the veracity of a positive test result, the MRO is authorized to order a reanalysis of the original sample. If the MRO determines there is a legitimate medical explanation for the positive test result, MRO may deem that the result is consistent with legal drug use, and take no further action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1081(9).

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Worker's Compensation, LR 17: (August 1991).

Phyllis Coleman Mouton
Secretary

RULE

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

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 Louisiana Air Quality Regulations, (AQ52) LAC 33:III.111.

These regulations will add four definitions to Section 111. They will also correct errors which are in the existing regulations. These edits are minor in size but significant to the meaning of the text.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 1. General Provisions

* * *

§111. Definitions

* * *

Coating—a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealants, adhesives, thinners, diluents, inks, maskants, and temporary protective coatings.

* * *

Department—the Air Quality Division, Office of Air Quality and Radiation Protection, of the Department of Environmental Quality.

Distance from Source to Property Line—the horizontal distance measured in feet from the centerline of a source to adjacent land or water that is not owned or controlled by the person emitting air contaminants from the source.

* * *

Exceedance—a value or measurement greater than the level of a standard.

* * *

Hydrocarbon—organic compounds, the molecules of which consist primarily of carbon and hydrogen atoms.

* * *

Leak—(Relating to Fugitive Emission Control) an organic compound concentration exceeding 10,000 parts per million by volume (ppmv) or the dripping or exuding of process fluid having a true vapor pressure greater than 0.0435 psia at 68°F (20°C).

* * *

Miscellaneous Metal Parts and Products Coating—the coating of miscellaneous metal parts and products in the following categories:

1. large farm machinery (harvesting, fertilizing, and planting machines; tractors; combines; etc.);
2. small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);
3. small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);
4. commercial machinery (computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);
5. industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);
6. fabricated metal products (metal-covered doors, frames, etc.); and
7. any other category of coated metal products except those on the specified list in LAC 33:III.2123.C.1 through 8 and 10 of surface coating processes, which are included in the Standard Industrial Classification Code major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectrical machinery), major group 36 (electrical machinery), major group 37 (transporta-

tion equipment), major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries).

* * *

Non-attainment Area—an area (parish or group of parishes) declared by the administrative authority* to be not in compliance with a Federal National Ambient Air Quality Standard and listed in the *Federal Register* as a non-attainment area.

* * *

Ozone Exceedance—a daily maximum hourly average ozone measurement that is greater than the value of the standard.

* * *

State Implementation Plan (SIP)—a plan required by the Clean Air Act that outlines the actions to be taken by a state air pollution control agency to reduce emissions of the non-attainment pollutant so as to change the non-attainment area to an attainment area and maintain the area in attainment status.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection LR 17: (August 1991).

Copies of this rule are available at the Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810 or at the Office of the State Register, 1051 Riverside North, Capitol Annex Building, 5th Floor, Baton Rouge, LA, 70802.

J. Terry Ryder
Assistant Secretary

RULE

**Office of the Governor
Division of Administration
State Land Office**

Pursuant to the provisions of R.S. 41:1701-1715 and the Administrative Procedure Act, the commissioner of Administration has amended LAC 43:I.511, General Regulations Issued under Act 645 of 1978.

The new rules make neither substantive nor procedural changes to the granting of leases for commercial structures upon state owned waterbottoms. The new rule will reduce the rental for such structures.

**Title 43
NATURAL RESOURCES
Part I. Office of the Secretary**

Chapter 5. State Lands

§511. General Regulations Issued Under Act 645 of 1978

* * *

K. Leases

1. After fulfilling the requirements for a structure permit, the applicant and the secretary of the Department of Natural Resources shall enter into a lease agreement to op-

erate or maintain the encroachment. Such leases will not be subject to competitive bidding except in those cases where the best interest of the state and applicant will be served. The consideration for such leases shall be based upon the size and nature of the encroachment.

2. Annual rentals on leases for commercial wharves, piers, and other structures issued pursuant to R.S. 41:1201-1215 lying outside of the jurisdiction of deep water port commissions shall be levied at two cents per square foot of state owned land or waterbottom enclosed or utilized by the structures and associated vessels. Those lands so utilized shall include the pier, wharf or dock itself, all associated piles, dolphins, structures, and waters adjacent and contiguous to the above structures occupied by vessels docking at said structures. The waters so utilized by vessels and included in the lease shall be measured in 10 foot increments adjacent and adjoining the structures (10, 20 or 30 feet) depending upon the size of the vessels docking at that particular pier, dock or wharf. Any contiguous area of water where boats may be moored shall be assessed according to the following schedule:

- a. boats less than 35 feet in length require a 10 foot wide berthing;
- b. boats 35 to 75 feet in length require a 20 foot wide berthing; and
- c. boats greater than 75 feet in length require a 30 foot wide berthing.

3. In no instance shall the consideration be less than \$100 per annum. Leases entered into shall be for a term of five years and subject to renewal by lessee for nine successive terms. In no case shall the maximum term of such leases exceed 50 years. At the end of 50 years maximum period, lessees may apply for a new lease for the subject encroachment.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 5:8 (January 1979), amended LR 7:342 (July 1981), amended LR 12:440 (July 1986), amended by the Office of the Governor, Division of Administration, State Land Office, LR 17: (August 1991).

H. Glen Kent
Administrator

RULE

Department of Health and Hospitals State Board of Electrolysis Examiners

The Department of Health and Hospitals, State Board of Electrolysis Examiners, has amended the operating rules and regulations, LAC 46:XXV. Chapters 1 through 23. These amendments are being proposed in accordance with R.S. 37:3051-3077.

Copies of the proposed rule can be obtained through the Office of the State Register, 1051 Riverside North, Baton

Rouge, LA 70804-9095 or through the State Board of Electrolysis Examiners, Box 1468, Baton Rouge, LA 70821-1468.

Christine Benoit
Chairperson

RULE

Department of Health and Hospitals Board of Examiners of Professional Counselors

The Louisiana Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act R.S. 49:950 et seq., has adopted the following rule amendments governing the practice of mental health counseling in the state of Louisiana, as appeared in the May, 1991 *Louisiana Register*, page 507.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LX. Professional Counselors, Board of Examiners

Chapter 13. License; Adjudication

§1301. Denial, Revocation, or Suspension of License

A. - B. ...

C. Authority: The board by an affirmative vote of at least four of its seven members shall withhold, deny, revoke or suspend any license issued or applied for in accordance with the provisions of this law R.S. 37:1110.

D. Procedures

1. Ground rules governing a hearing before the board.

a. R.S. 37:1110 gives the board the authority, for the purpose of hearings, to subpoena persons, books, and papers on its own behalf or on behalf of the applicant or licensee who may appear by counsel or personally on his own behalf. To subpoena includes requirement of the board that the licensee or applicant and legal counsel draw up the subpoena, convey it to the attorney for the board chairperson's signature, that the subpoena be returned to the applicant or licensee for service to be effected by the applicant or licensee.

b. In accordance with R.S. 37:1110 (A) all complaints shall be addressed confidential to the chairperson of the board and shall be sent to the board office. The chairperson of the board shall during an executive session of the board convey the complaint to the board members. The board members by a vote of four of the seven members shall agree to investigate the charges or deny the charges. If a denial, the chairperson of the board shall request counsel to prepare the letters of denial for his signature. If the board agrees to investigate, the board shall prepare a Show Cause Order in which the accused shall be notified in sufficient specificity that he/she is being charged with a breach of the statute and/or ethical code adopted by the board and that he/she must show cause why the board should not discipline the accused. A response is to be made to the chairperson of the board at the board office address. The complaint letter of alleged violations shall not be given initially to the accused licensee. However, sufficiently specific allegations shall be conveyed to the accused for his/her response. Once the accused has answered the complaint, the board shall deter-

mine if a hearing is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors. LR 14:84 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 15:837 (October 1989), LR 17: (August 1991).

Susan Mayeaux, M.A.
Executive Director

RULE

Department of Health and Hospitals Board of Medical Examiners

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B), 37:3241-3257, and in accordance with applicable provisions of the Administrative Procedure Act, has adopted amendments to its rules governing the licensure and practice of license midwife practitioners. LAC 46:XLV, Subpart 2, Chapter 23, and Subpart 3, Chapter 53.

Copies of this rule may be obtained at the Office of the State Register, 1051 Riverside North, Capitol Annex Building, 5th Floor, Baton Rouge, LA 70804 or Louisiana State Board of Medical Examiners, at Suite 100, 830 Union Street, New Orleans, LA 70112-1499.

Delmar Rorison
Executive Director

RULE

Department of Health and Hospitals Board of Pharmacy

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq. and Pharmacy Law R.S. 37:1178, the Board of Pharmacy has adopted the rule pertaining to the definition and transmission of prescriptions and further provides for freedom of choice to the patient by amending and adding Sections 909, 911 and 2713 to Title 46, Professional and Occupational Standards, Part LIII. Pharmacists.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LIII. Pharmacists

Chapter 9. Pharmacies

§909. Prescription

A. Definition: A prescription means an order for a drug, chemical, device or a combination thereof, either written, given orally or otherwise transmitted to a licensed pharmacist by a licensed physician, dentist or veterinarian, to be dispensed or compounded in a permitted pharmacy and dispensed by a licensed pharmacist to the patient or agent along with necessary and appropriate patient counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: (August 1991).

§911. Transmission of Prescriptions

A. Receipt of a Prescription

1. Written: A pharmacist may receive and dispense a bona fide prescription which has been written and/or signed by the practitioner.

2. Oral: A pharmacist may receive and dispense a bona fide prescription which has been orally communicated by the practitioner when the prescription has been reduced to hard copy.

3. Electronic Transmission: A pharmacist may receive and dispense a bona fide prescription communicated from a practitioner, via facsimile or other means, and then the prescription must be reduced to hard copy. When receiving a prescription transmitted in this manner the pharmacist must indicate on the hard copy the mode of transmission as well as the phone number of the practitioner making the transmission.

B. Verification: Verification of the accuracy and authenticity of any prescription is the responsibility of the pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: (August 1991).

§913. Prescription Dispensing

A. Definition. Prescription dispensing is the issuance, by a licensed pharmacist, of one or more doses of medication in a suitable container, properly labeled for subsequent administration, and shall consist of the following procedures or practices:

1. receiving and interpretation of the written or oral prescription order; and

2. assembling the drug products and an appropriate container; and

3. preparing the prescription by compounding, mixing, counting, or pouring; and

4. affixing the proper label to the final container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: (August 1991).

§915. Labeling

An appropriate label shall be affixed to a proper container with the following information:

A. pharmacy's name;

B. pharmacy's address and telephone number;

C. prescription serial number;

D. authorized prescriber's name;

E. patient's name;

F. date dispensed;

G. directions for use, as indicated;

H. drug name and strength;

I. pharmacist's last name and initial; and

J. cautionary auxiliary labels, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: (August 1991).

§917. Pharmacy Prepackaging

Prepackaging is the packing of medications in a unit of use container, by a licensed pharmacist, in a Louisiana permitted pharmacy prior to the receipt of a prescription for ultimate prescription dispensing by a pharmacist in Louisiana.

A. Labeling. The label on the prepackaged container shall contain the following information:

1. drug name;
2. dosage form;
3. strength;
4. quantity;
5. name of manufacturer and/or distributor;
6. manufacturer's lot or batch number;
7. date of preparation;
8. pharmacist's last name and initial;
9. expiration date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: (August 1991).

§919. Drug Administration

Drug administration is the providing of a single unit final dose form of medication for a patient upon orders and directions for use by a licensed pharmacist in compliance with an authorized prescriber's order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: (August 1991).

§921. Mechanical Drug Dispensing Devices

Dispensing of prescription legend drugs directly to a patient by mechanical devices or machine is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: (August 1991).

§923. Prescription Department Requirements

A pharmacy commencing operation after January 1, 1989, or an existing operation continuing at a new or remodeled location, must meet the following minimum requirements:

A. Structure. A prescription department must provide sufficient and adequate structural space for safe and appropriate drug dispensing and compounding.

1. Prescription Department Area. The prescription department is a restricted area that shall be not less than 200 total square feet that is inaccessible to the public.

2. Prescription Counter. A prescription counter on which to compound or dispense medications must have a free working surface of not less than two feet in width nor less than 12 feet in length or a minimum of 24 total square feet. The minimum unobstructed free working surface must be kept clear at all times for the compounding or dispensing of prescriptions.

3. Prescription Aisle Space. The aisle space behind the prescription counter shall not be less than 30 inches in

width.

4. Prescription Department Plumbing. The prescription department shall have, in close proximity of the prescription counter, a sink equipped with available hot and cold running water.

5. Drug Inventory/Fixtures. The pharmacy shall provide sufficient shelf and drawer or cabinet space for proper storage of labels, prescription containers, and an adequate prescription inventory in order to compound and dispense prescription orders.

6. Pharmacy Security. The board requires that adequate protection of the prescription and drug department be secured by the installation of partitions and secured entrances, which shall be locked by a pharmacist when the prescription department is closed in order to avoid the diversion of dangerous drugs and shall be inaccessible to the public and the key shall be maintained by the pharmacist-in-charge or a pharmacist designee.

a. For emergency access only, a key to the prescription department may be available elsewhere. When this emergency key is utilized the name of the person entering the prescription department, the day and time of entry, as well as the nature of the emergency shall be entered in a log maintained in the pharmacy department. At the next available opportunity, the pharmacist-in-charge shall sign and date the log verifying the emergency.

b. Storage. Adequately secured storage is required for legend drugs to avert diversion or theft.

7. Contents. The following references, equipment, and supplies shall be required:

a. Reference. Current editions with supplements of the following:

i. Louisiana Board of Pharmacy Laws, Rules, and Regulations;

ii. United States Pharmacopoeia Dispensing Information: Advice for the Patients;

iii. one of the following is required: Pharm-Index or Facts and Comparisons.

b. Equipment Minimum Requirements

i. suitable Class "A" balance;

ii. accurate set of weights;

iii. set of graduates;

iv. mortars and pestles;

v. spatulas;

vi. funnels;

vii. ointment slab; and

viii. typewriter, or equivalent.

c. Supplies

i. prescription files;

ii. bottles, vials, and other suitable containers;

iii. labels;

iv. empty capsules;

v. powder papers; and

vi. filter papers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: (August 1991).

Chapter 27. Pharmacy Opening and Closing Procedures

§2713. Limit Freedom of Choice

A. Pharmacists and/or pharmacies are prohibited from entering into any agreement and/or arrangement, or partici-

pating in any process that directly or indirectly denies and/or limits freedom of choice to the patient.

B. Pharmacists and/or pharmacies are prohibited from supplying facsimile and/or other equipment or supplies, or participating in any process that directly or indirectly denies and/or limits freedom of choice to the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17: (August 1991).

Howard B. Bolton
Executive Director

RULE

**Department of Health and Hospitals
Office of Public Health**

In accordance with provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals (DHH), Office of Public Health, has rescinded the Management Fee for the Safe Drinking Water Program in accordance with Act 257 of the 1990 Regular Session of the Louisiana Legislature.

The following definitions in Section 12:001 of the Sanitary Code shall be deleted:

Management Fee is an annual fee assessed to the public water supplies by the Department of Health and Hospitals for management of the Safe Drinking Water Program. Failure to pay this fee will result in a violation of a National Primary Drinking Water Regulation and subsequent issuance of an Administrative Order and/or Administrative Penalty in an amount not to exceed \$5000 per day for each day of violation.

Service Connection is a physical connection to public water supply which may or may not be metered.

The following Section shall be deleted from the State Sanitary Code:

12:002-7 The Department of Health and Hospitals shall assess an annual management fee to the public water supplies (community, non-transient non-community and non-community) according to the following schedule:

COMMUNITY WATER SUPPLIES

Each community water supply will be charged an annual fee based on the number of service connections in the system.

NUMBER OF SERVICE CONNECTIONS CATEGORY	NUMBER OF COMMUNITIES IN EACH CATEGORY	ANNUAL FEE
6 - 50	598	\$ 25
51 - 125	236	\$ 500
126 - 250	172	\$ 600
251 - 625	208	\$ 700
626 - 825	48	\$ 800
826 - 1,250	66	\$ 900
1,251 - 2,500	71	\$ 1000
2,501 - 12,500	47	\$ 1500
12,501 - 18,750	4	\$ 2000
18,751 - 25,000	6	\$ 2500
25,001 - Up	6	\$ 3000

NON-COMMUNITY WATER SUPPLIES

Each Non-Community water supply will be charged a flat fee of \$25 per year.

NUMBER OF NON-COMMUNITIES	ANNUAL FEE
591	\$25

NON-TRANSIENT NON-COMMUNITY WATER SUPPLIES

Each Non-Transient Non-Community water supply will be charged a flat fee of \$25 per year.

NUMBER OF NON-TRANSIENT NON-COMMUNITIES	ANNUAL FEE
294	\$25

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on May 20, 1991 (Volume 17, No. 5, page 513).

RULE

In accordance with 42 CFR Section 433.139 which implements section 9503 of COBRA, Medicaid claims for services covered under the State Plan will be cost avoided when there is probable third party liability unless the claim is for one of the following services:

- A. prenatal care pregnant women;
- B. preventative pediatric services including early and periodic screening diagnosis and treatment of individuals under the age of 21 years;
- C. services provided to an individual for whom child support enforcement services are being carried out by the Title IV-D state agency.

In processing these claims, the Medicaid agency will pay the claim and seek reimbursement from liable third parties, utilizing the claims method of payment called "pay and chase." When the claim is for a service provided to an individual for whom child support enforcement services are being enforced through the Title IV-D state agency, the provider is not required to bill a liable third party prior to billing the state Medicaid agency. The state elects to process these claims in the same manner as for prenatal care and preventative pediatric services, that is, through the pay and chase process. Implementation of the rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on May 20, 1991 (Volume 17, No. 5, page 515).

RULE

Title XIX eligibility to stepparents who do not meet the criteria to be included as a member of a family with children deprived of the support of at least one parent shall be determined in the appropriate categorically related aged, blind, or disabled classification. SSI budgeting procedures shall be used to determine eligibility for medical assistance.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on May 20, 1991 (Volume 17, No. 5, page 516).

RULE

Medicaid eligibility in the F and V categories of assistance as an Optional Categorically Eligible group is extended to those individuals age 18 through 20.

Implementation of the rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on May 20, 1991, (Volume 17, No. 5, page 517).

RULE

Medicaid Nursing Home Standards Reform Provisions:
Nurse Aide Training and Competency Evaluation Program
Both the Nurse Aide Training and the Competency Evaluation may be provided by community colleges, vocational-technical programs and other educational facilities. Nursing facilities may provide the required 80 hours of training but the competency evaluation will be the responsibility of the state agency administering the State Nurse Aide Training Program.

Training Program Content

Core Curriculum — the curriculum content for the nurse aide training includes material which provides a basic level of both knowledge and demonstrable skills for each individual completing the program. The core curriculum content includes needs of populations which may be served by an individual nursing facility. The program must be a minimum of 80 hours in length consisting of 40 classroom hours and 40 skills training hours.

Orientation Program — an orientation program shall be given to all nurse aides in a nursing facility-based program. This program shall include, but not be limited to, an explanation of the organizational structure of the facility, policies and procedures, discussions of the philosophy of care of the facility, description of the resident population, and employee rules.

This facility orientation phase of the training program is not included in the required 80 hours of training. For training programs provided by entities other than nursing facilities, orientation to facilities used for off-site training will not be required.

Unit Objectives — each nurse aide training program must have behaviorally stated objectives for each unit of instruction. Each objective must state performance criteria which are measurable and which will serve as the basis for competency evaluations. The unit objectives will be reviewed with the trainees at the beginning of each unit so that each trainee will know what is expected of him/her as he/she participates in each part of the training program. All facility-based nurse aide training programs, must use the core curriculum objectives for nurse aide training, and must adapt the content and skills training application to the specific population.

Identification of Nurse Aide Trainees — each nurse aide trainee should be clearly identified as a trainee during all skills training portions of the training. Identification should be recognizable to residents, family members, visitors, and staff.

Nurse Aide Trainee Activities — a person cannot be employed as a nurse aide by the facility for more than four months unless he/she has satisfactorily completed an approved training and/or competency evaluation program. (In programs that are facility-based, the facility can permit trainees to provide only that care for which they have demonstrated competency. For instance, if the nurse aide trainee has received training on the correct procedure to use in assisting a resident with ambulation and has demonstrated to the instructor an acceptable level of competence, the trainee may provide this assistance. Supervision of the nurse aide after training is the responsibility of the nurse supervisor and/or charge nurse.)

Ongoing Training

All facilities will continue to provide ongoing training

on a routine basis both in groups and, as necessary in specific situations, on a one-to-one basis. Each nursing aide must receive and be compensated for three hours of such staff development training per quarter. Training can be received on the unit as long as it is directed toward skills improvement, provided by appropriately trained staff and documented (for example, skills demonstrated with return demonstration recorded on a check list).

Curriculum Approval

To get a course approved, the facility/school must submit to DHH a copy of: 1) the curriculum; 2) a list of instructors and their qualifications (RN/LPN experience in nursing; experience in teaching; experience in a nursing home setting); and 3) time slots for each topic of classroom and clinical instruction (a minimum of 40 hours each is required). If a school is applying for approval it must identify the facilities used for classroom instruction and clinical experience (a nursing home or hospital SNF must be used). A school must also submit copies of exams and evaluation programs.

Qualifications of Instructors

A. Non-Nursing Facility-Based Programs — The Program Coordinator/Primary Instructor (PC/PI) must be a registered nurse with two years of experience in caring for the elderly and/or chronically ill of any age. Such experience could be obtained through employment in a nursing facility/unit, geriatrics department, chronic care hospital or other long-term care setting and should include varied responsibilities, such as direct resident care, supervision and staff education. The PC/PI must attend a "Train-the-Trainer" type program approved by the state or have demonstrated competence to teach adult learners as defined by the state.

B. Nursing Facility-Based Programs — The Program Coordinator (PC) in a nursing facility based program may be the director of the nursing services (DON). The DON may assume the administrative responsibility and accountability for the nurse aide training program. When the PC is the DON, qualified assistance must be available so that the DON nursing services responsibilities are covered full time. The primary instructor (PI) must be a licensed nurse with at least one year of experience in a nursing facility. The PC/PI must attend a "Train-the-Trainer" type program approved by the state or have demonstrated competence to teach adults as defined by the state.

C. Program Trainer (PT) — Qualified resource personnel from the health field may participate as Program Trainers (PTs). They include: registered nurses, licensed practical/vocational nurses, pharmacists, dietitians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech/language/hearing therapists.

All PTs should have a minimum of one year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience. All PTs should be, where applicable, licensed, registered and/or certified in their field. The program may utilize other persons such as residents, experienced aides, and ombudsmen, if these persons are needed to meet the planned program objectives for a specific unit.

Licensed practical (vocational) nurses (LPNs), under the general supervision of the primary instructor, may provide classroom and skills training instruction and supervision if they have two years experience in caring for the elderly and/

or chronically ill of any age or have equivalent experience.

Such experience is normally obtained through employment in a NF/unit, geriatrics department, chronic care hospital or other long-term care setting. Experience in resident care, supervision, and staff education is preferred.

The ratio of instructors to trainees in skills training must ensure that each trainee is provided safe and effective assistance and supervision. The examiner conducting the clinical competency evaluation for any individual trainee must meet the qualification for the PC/PI.

Minimum Curriculum Requirements

The objective of the nurse aide training and competency evaluation program is the provision of quality services to residents by nurse aides who are able to:

1. communicate and interact competently on a one-to-one basis with residents as part of the team implementing resident care objectives;

2. demonstrate sensitivity to residents' emotional, social, and mental health needs through skillful, directed interactions;

3. assist residents in attaining and maintaining functional independence;

4. exhibit behavior and support and promotions of residents' rights; and

5. demonstrate observational and documenting skills needed in support of the assessment of residents' health, physical condition and well-being. (In a nursing facility setting that requires 24-hour per day supervision over a period of years, the training program must address the psychosocial, physical and environmental needs as equally as important as the medical needs). The training program must teach the attitudes and behaviors (which reflect attitudes) which impact positively on the emotional conditions of residents and focus on the restoration and maintenance of the resident in an independent as possible status, such that these attitudes and behaviors of staff are demonstrable in the day-to-day care environment in the facility.

Core curriculum — At its outset, the training program must provide classroom instruction prior to a trainee's direct involvement with a nursing facility resident. This instruction shall be at least 16 hours and at a minimum include the following topics: a) communication and interpersonal skills; b) infection control; c) safety/emergency procedures; d) promoting residents' independence; and e) respecting residents' rights.

In addition, another 16 or more hours should be devoted to skills training. The evaluation program must be developed and conducted to ensure that each nurse aide, at a minimum, is able to demonstrate competencies in the following areas:

1. Basic nursing skills. The nurse aide will be able to demonstrate basic nursing skills, including but not limited to bed-making; taking vital signs; measuring height and weight; caring for the resident environment; measuring fluid and nutrient intake and output; assisting in the provision of proper nutritional care; ambulating; transferring; using body mechanics; maintaining infection control and safety standards; attaining/maintaining proficiency in cardiopulmonary resuscitation (CPR); caring for residents when death is imminent and recognizing abnormal signs and symptoms of common diseases and conditions.

2. Personal care skills. The nurse aide will be able to demonstrate basic personal care skills including, but not lim-

ited to bathing, including mouth care; grooming, dressing, toileting; assisting with eating and hydration; and skin-care.

3. Mental health and social service needs. The nurse aide will demonstrate basic skills by modifying his/her own behavior in response to residents' behavior; identifying developmental tasks associated with the aging process and use task analysis, segmenting of those tasks to increase independence; providing training in and the opportunity for, self care according to residents' capabilities; demonstrating principles of behavior modification by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated; demonstrating skills supporting age-appropriate behavior by allowing the resident to make personal choices, providing, and reinforcing other behavior consistent with residents' dignity; and utilizing residents' family as a source of emotional support.

4. Basic restorative services. The nurse aide will be able to demonstrate skills which incorporate principles of restorative nursing, including the use of assistive devices in ambulation, eating, and dressing; maintenance of range of motion; proper turning and positioning both in bed and chair; transferring; bowel and bladder training; and care and uses of prosthetic devices, such as hearing aids, artificial eyes, artificial limbs.

5. Residents' rights. The nurse aide will be able to demonstrate behavior which maintains residents' rights, including but not limited to: assisting a resident to vote, providing privacy and maintenance of confidentiality, allowing the resident to make personal choices to accommodate individual needs giving assistance in resolving grievances, providing needed assistance in getting to and participating in resident and family groups and other activities, maintaining reasonable care of resident's personal possessions, providing care which maintains the resident free from abuse, mistreatment or neglect, and reporting any instances of such poor care to appropriate facility staff, and maintaining the resident's environment and care so as to minimize the need for physical and chemical restraints.

State Review of Compliance with Program Requirements

The review of compliance with requirements will include, at a minimum, a review of program content, length, ratio of classroom to skills training content, qualification of instructors, quality of clinical supervision, and in the case of nonfacility-based programs, review of the written and skills competency evaluation program. The proportion of students completing the competency evaluation will be considered part of the overall review. Also reviewed will be the physical facilities used both in classroom and skills training. The classroom facilities should maintain a comfortable temperature, be maintained in a clean and safe condition, have adequate space to accommodate all students, and have adequate lighting and all equipment needed, including audio-visual equipment and any equipment needed for simulating resident care. The quality of care provided by individual nurse aides that is monitored during a licensure and/or survey and certification survey, may be used as one part of the program review.

Initial post-approval and ongoing review — After initial approval of a training and competency evaluation program, the state will do an initial one year post-approval review to determine the program's implementation of and compliance with the requirements as set forth in this regulation. After the one year post-approval review, the program must be re-

viewed, on-site, at least every two years. Programs not meeting minimum requirements may be terminated if the program does not provide an acceptable plan for correcting deficiencies. A self evaluation will be submitted by the program provider to the state agency each year that an on-site review is not scheduled.

Minimum program performance standards — The training and evaluation program must include access to a nursing facility (with no Medicare/Medicaid terminations against it within the past two years) for all skills training experience; maintenance of qualified faculty members for both classroom and skills portions of the training and competency evaluation programs; maintenance of the security of the competency evaluation examinations; a pass rate on the competency evaluation programs of 70 percent of all persons participating; adequate number of clinical instructors to provide safe and effective supervision and assistance; program curriculum content that meets federal and state requirements; and classroom facilities that meet federal requirements for nurse aide training programs. Programs that do not meet these minimum standards and cannot provide an acceptable plan for correcting deficiencies will be eliminated from participation in the program.

Requirements for Determination of Competency

Requirements for persons working prior to July 1, 1989 — All persons working as nurse aides prior to July 1, 1989, must complete a competency evaluation program which consists of both a written or oral and a manual (clinical) component. This evaluation program must be satisfactorily completed by January 1, 1990, and the facility is required to provide the necessary preparation for the individual to do so. The employee will be provided with at least three opportunities to complete the program successfully.

Re-training required — An individual who has not performed nursing or nursing-related services for a continuous 24-month period for pay after completion of a training and competency evaluation program, must complete a new training and competency evaluation program.

Competency evaluation responsibility — the competency evaluation is the responsibility of the Department of Health and Hospitals for those aides trained in a nursing facility and/or those aides hired prior to July 1, 1989 who did not have an approved training and competency evaluation program. The state cannot delegate this responsibility to a facility. (The competency evaluation for nurse aides trained in community colleges, vocational-technical programs, and other educational facilities, may be provided by the training institution.)

Written or oral examinations will be provided by the state. The written evaluation component will be given in English unless the aide will be working in a facility in which the predominant language is other than English. In this case the examination may be taken in the written predominant language used in the facility, dependent upon the availability of a translator who will maintain the integrity of the examination. The written or oral examination content will reflect the content and emphasis of the training program and will be developed in accordance with accepted educational principles.

A substitute examination, including an oral component, will be developed for those nurse aides with limited literacy skills. However, this examination must include all content that is included in the written examination, and must include a written reading comprehension portion that will de-

termine competency to read job-related information. For example, the aide must be able to read such material as a resident's name band or the contents of a bottle sitting on a bedside stand.

For the skills training component of the evaluation program, each nurse aide training program will develop a performance record of major duties/skills taught. This record will consist of, at a minimum, a listing of the duties/skills expected to be learned in the program, space to record when the aide performs this duty/skill, and spaces to note satisfactory or unsatisfactory performance, the date of performance, and the instructor supervising the performance. At the completion of the nurse aide training program, the nurse aide and his/her employer will receive a copy of this record. If the individual did not successfully perform all duties/skills on this performance record, he/she will receive supervision for all duties and skills not satisfactorily performed until such satisfactory performance is confirmed.

The demonstration aspect of the skills training portion of the competency evaluation program will consist of a minimum performance of five tasks, all of which are included in the performance record. These five tasks will be selected for each aide from a pool of evaluation items which have been ranked according to degree of difficulty. A random selection of tasks will be made, with at least one task from each degree of difficulty. Examples of such evaluation items are: making an occupied bed; taking and recording a resident's blood pressure, temperature, pulse and respirations; orienting a new resident to the facility; performing range of motion exercises; giving a bed bath; positioning a resident on his side; and responding to a demented resident who is calling out, yelling or indicating distress or anger.

Task-related evaluation items will be developed to also evaluate the non-task oriented competency of the trainee, such as communication and psychosocial skills. The skills demonstration portion of the competency evaluation may be held in either a nursing facility or in a laboratory equipped for this purpose.

In the case of nursing facilities which provide their own training programs, the state has made arrangements to provide competency evaluation programs for the individuals who complete this nursing facility-based training or approve an organization that a trainer can contact to provide competency evaluation. The skills competency evaluation may be given in a nursing facility, but must be administered by personnel not associated with the facility. The competency evaluation may be proctored (as opposed to administered) by facility personnel if the competency evaluation program is secured from tampering, is standardized and scored by a testing, educational, or other organization approved by the state, or by the state itself, and requires no actual administration or scoring by facility personnel. The trainee should have the opportunity to take the competency evaluation (both written or oral and skills demonstration) in a timely manner after completion of the training program. The trainee will be provided with a minimum of three opportunities to successfully complete both the written (or oral) and skills portions of the competency evaluation.

Location Responsibility for Approval of Programs

Nurse aide training programs may be offered by or in nursing facilities, as well as outside facilities. The skills portion of the training must in all cases utilize a facility and its

residents. Nursing facilities may offer complete training programs themselves and/or may contract with another organization to provide the training and competency evaluation. When the training is provided by the facility employing the aide, the competency evaluation must be administered by the state, or an organization under state auspices.

Other groups and/or institutions such as employee organizations, vocational-technical schools, community colleges, and private institutions may also conduct programs, dependent upon state approval of both the training and competency evaluation programs.

Disqualification of Facilities from Offering Aide Training

The state must prohibit the approval of nurse aide training programs offered by nursing facilities that have:

1. Been determined out of compliance by Medicaid/Medicare Program on or after October 1, 1988, until the end of a two-year period during which no survey or investigation finds any deficiencies.

2. Received a notice indicating termination between October 1, 1989, and September 30, 1990, until the completion of the next survey that finds no deficiencies warranting a notice.

3. Operated under a waiver granted on the basis of a demonstration that the facility is unable to provide RN coverage in excess of 48 hours during a week.

4. Beginning October 1, 1990, been found in a standard survey to have deficiencies resulting in significant civil money penalties (\$5,000 or more), termination of payments, a ban on admissions, under temporary management or closure of facility and had residents transferred, or has been subject to an extended (or partial extended) survey.

Deemed Competency and Reporting of Individuals

Any organization responsible for the Nurse Aide training and competency evaluation program must report to the state nurse aid registry maintained by the Board of Examiners for Nursing Home Administrators the names of all individuals who have satisfactorily completed the program within 30 days after their completion of the program. When the competency evaluation program is conducted by the state, the state is responsible for ensuring that the names of persons successfully completing the program are placed in the register.

Once an aide has successfully completed a course that has been approved by the Department of Health and Hospitals (DHH) in a non-nursing facility and based program, the school shall notify the registry by completing Form NAT - 8.

When an aide has successfully completed a course in a nursing facility-based program, Form NAT - 8a will be sent to the nearest vocational-technical school so competency testing may be scheduled.

After the competency testing is completed and scored the vo-tech school will submit Form NAT - 8 to the registry board indicating those nurse aides eligible for certification.

Forms to be used by DHH and the registry are as follows:

Form NAT - 1 is used to evaluate the curriculum submitted;

Form NAT - 2 is sent to the facility if program is approved;

Form NAT - 3 is sent to the facility if program does not meet the state requirements;

Form NAT - 4 was used as a tool for "grandfathering"

aides for certification prior to January 1, 1989;

Form NAT - 5 was used for determining which aides would be certified, which aides would need to take a competency test (to be administered by the state) and which aides (hired after July 1, 1988 and having no previous training or nursing home experience) needed to complete the 80-hour course by January 1, 1990;

Form NAT - 6 was used by DHH to notify the registry of those aides determined to meet the criteria for certification. A copy of Form NAT - 5 was sent to the registry along with Form NAT - 6;

Form NAT - 7 is to be used by the facility to notify the registry of employment or termination (employment ceased) of a certified aide;

Form NAT - 8 is to be used by the schools to notify the registry of those persons having completed an approved course.

Form NAT - 8a is to be used by the facilities to notify the vo-tech school of those persons having completed a training course. This will alert the vo-tech school of the need for administering competency test to those aides. After successfully passing competency test. Form NAT - 8 will be sent to the registry; and

Form NAT - 9 is to be used by the RN from DHH in grading and evaluating the competency of each aide taught by a nursing facility. When the aide has passed both the written/oral and competency skills test this form will be sent to the registry to notify them that this aide qualifies for certification.

Investigation of Allegations of Residents' Neglect, Abuse and/or Misappropriation of Resident Property

The Department of Health and Hospitals has provided through the Department of Social Services, Appeals Bureau, a process for the receipt timely review and investigation of all allegations of resident neglect, abuse and/or misappropriation of residents' property by a nurse aide employed in a nursing facility.

Definitions

Neglect is defined for the purpose of this Chapter as the nurse aide's failure to provide the proper or required medical care, nutrition or other care necessary for a recipient's well-being.

Abuse is defined as follows: 1) the infliction of physical or mental injury; or 2) causing deterioration to such an extent that the resident's health, morale, and/or emotional well-being is endangered. Cause of such deterioration may include but is not limited to the following: a) sexual abuse; b) exploitation; c) extortion of funds or other things of value.

Misappropriation of residents' property is to take possession, without permission, of residents' personal belongings. Misappropriation may include, but is not limited to the following: 1) clothing; 2) jewelry; 3) money.

Notice of Violations

When there are substantiated charges against the nurse aide, either through oral or written evidence, the Bureau of Health Services Financing (BHSF) will notify the individual(s) implicated in the investigation of the following information by certified mail:

1. The nature of the violations, and the time and date of each occurrence;
2. The state's intent to report these violations to the nurse aide registry; and
3. The right to request an informal discussion and/or

the right to an administrative hearing.

Right to an Informal Discussion

When a nurse aide feels that she/he has been wrongly accused, the following procedure should be followed.

Within 15 calendar days of the receipt of the agency's notice of violation, the nurse aide may request an informal discussion. Such request must be made to the agency in writing. A meeting will be arranged within 20 days of such a request. The informal discussion is designed to provide an opportunity for the nurse aide to informally review the situation; for the agency to offer alternatives based on corrections or clarifications, if any; and for the nurse aide to evaluate the necessity for seeking an administrative hearing. During this informal discussion, the nurse aide will be afforded the opportunity to talk with agency personnel involved in the situation, to review pertinent documents on which the alleged violation is based, to ask questions, to seek clarifications, and to provide additional information.

Right to Request Administrative Hearing

Within 30 calendar days after the receipt of notice of the agency's notice of violation or the notice of results of informal discussion, the nurse aide may request an administrative hearing. Such request must be in writing to the appeals section. The request must contain a statement setting forth the specific charges with which he/she disagrees, and the reasons for this disagreement.

Unless a timely and proper request is received by the appeals section, the findings of the BHSF shall be considered a final and binding administrative determination. Notification will then be sent to the nurse aide registry to be recorded on their file.

Basic Provisions

The administrative hearing shall be conducted in accordance with the Louisiana Administrative Procedure Act, R.S. 49:965 et seq., and the provisions set forth in the procedures described therein.

Right to Counsel

Any party may appear and be heard at any appeals proceeding through an attorney at law or through a designated representative.

Appearance in Representative Capacity

A person appearing in a representative capacity shall file a written notice of appearance on behalf of a provider identifying himself by name, address and telephone number, and identifying the party represented, and shall have a written authorization to appear on behalf of the provider.

Preliminary Conference

Although not specifically required, the appeals bureau may schedule a preliminary conference. The purposes of the preliminary conference include but are not limited to the following:

1. clarification, formulations and simplification of issues;
2. resolution of matters in controversy;
3. exchange of documents and information;
4. stipulations of fact so as to avoid unnecessary introduction of evidence at the formal review;
5. the identification of witnesses; and
6. such other matters as may aid disposition of the issues.

When the appeals bureau schedules a preliminary conference, it shall notify all parties in writing. The notice shall direct any parties and their attorneys to appear at a

specified date, time, and place.

Results of Preliminary Conference

Where the preliminary conference resolves all or some matters in controversy, a summary of the findings agreed to at the conference shall be provided by the administrative law judge.

Where the preliminary conference does not resolve all matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy. The hearing shall be scheduled within 30 calendar days following the completion of the preliminary conference, or at a time mutually convenient to all parties.

Notice of Administrative Hearing

When an administrative hearing is scheduled, the appeals bureau shall notify the nurse aide and/or his representative and the agency representative, in writing of the date, time, and place of the hearing. Notice shall be mailed not less than 10 calendar days before the scheduled date of the hearing.

Conduct of Hearing

The hearing shall be conducted by the administrative law judge from the appeals bureau.

Testimony shall be taken only on oath, affirmation, or penalty of perjury.

Each party shall have the right to call and examine parties and witnesses; to introduce exhibits; to question opposing witnesses and parties on any matter relevant to the issue even though the matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil or criminal actions. Documentary evidence may be received in the form of copies or excerpts.

The administrative law judge may question any party or witness and may admit any relevant and material evidence.

The administrative law judge shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the administrative law judge shall explain the issues and the order in which evidence will be received.

A party has the burden of proving whatever facts it must establish to sustain its position.

The burden of producing evidence to substantiate the written charge(s) will be on the provider of services. Once the burden of producing evidence to substantiate the charges has been met, the nurse aide and/or his representative shall have the burden of producing evidence answering the charges.

Witnesses and Subpoena

Each party shall arrange for the presence of their witnesses at the hearing.

A subpoena to compel the attendance of a witness may be issued by the administrative law judge upon written request by a party and a showing of the need therefor.

A subpoena may be issued by the administrative law judge on his own motion.

An application for subpoena duces tecum for the pro-

duction by a witness of books, papers, correspondence, memoranda, or other records shall be made in writing to the administrative law judge, giving the name and address of the person or entity upon whom the subpoena is to be served. The application shall precisely describe the material that is desired to be produced and shall state the materiality thereof to the issue involved in the proceeding. It shall also include a statement that, to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

Continuances or Further Hearings

The administrative law judge may continue a hearing to another time or place, or order a further hearing on his own motion or upon showing of good cause, at the request of any party.

Where the administrative law judge determines that additional evidence is necessary for the proper determination of the case, he may at his discretion:

1. continue the hearing to a later date and order the party to produce additional evidence; or
2. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

Written notice of the time and place of a continued or further hearing shall be given except that when a continuance of further hearing is ordered during a hearing, oral notice of the time and place of the hearing may be given to each party present at the hearing.

Record of Hearing

A sound recording of the hearing shall be made. A transcript will be prepared and reproduced at the request of a party to the hearing provided he bears the cost of the copy of the transcript.

Decision

At the conclusion of the hearing, the administrative law judge shall take the matter under submission.

The administrative law judge shall prepare a written proposed decision which will contain findings of fact, a determination of the issues presented, a citation of applicable policy and regulations, and an order.

The appeals bureau, on behalf of the secretary of the DHH, may adopt the proposed decision or may reject it based upon the record, or it may be remanded to the administrative law judge to take additional evidence. In the latter case, the administrative law judge thereafter shall submit a new proposed decision.

The decision shall be final and binding upon adoption on behalf of the secretary, subject only to judicial review by the courts. Copies of the decision shall be mailed to the nurse aide at his last known address and to any representative thereof.

Failure to Appear

If a nurse aide fails to appear at a hearing, a decision may be issued by the appeals bureau dismissing the hearing. A copy of the decision shall be mailed to each party.

Any dismissal may be rescinded upon order of the appeals bureau if the nurse aide makes written application within 10 calendar days after the mailing of the dismissal, and provides evidence of good cause for his failure to appear at the hearing.

Notification of Findings to the Registry

Only the state survey agency or attorney general's office can place the nurse aide's name and their adverse findings on the registry.

Record of the occurrence and hearing findings will remain on the registry for five years.

Registry

The Board of Examiners for Nursing Home Administrators has contracted with Department of Health and Hospitals to develop and maintain a registry for individuals who have successfully completed a nurse aide training and competency evaluation program or a competency evaluation program.

The following items will be maintained and retrievable from the registry:

1. identification of individuals who have successfully completed a nurse aide training and competency evaluation program;

2. identification of individuals who have successfully completed a competency evaluation program;

3. identification of individuals who have successfully completed a nurse aide re-training and competency evaluation program;

4. the following information which will be maintained on each individual: a) name; b) address; c) Social Security Number; d) phone number; e) place of employment; f) date of employment; g) date employment ceased; h) state certification number; and i) documentation of any investigation showing codes for specific findings of residents' abuse, neglect, and misappropriated property and an accurate summary of findings only after action on findings are final. This means after any appeal is ruled upon or the deadline for filing an appeal has expired.

Licenses for certification are renewable biannually. License renewal will be done automatically by registry biannually. Proof of continuing education will be done during the facility's annual review by the state agency.

Certification by Reciprocity

Nurse aides may become certified in Louisiana by reciprocity from other states. Applicants must submit to the registry the following information:

1. name;
2. Social Security Number;
3. certification number;
4. address of state's registry;
5. place of employment; and
6. date of employment termination.

After verification of certification in the other state, the registry will certify aide in Louisiana. Likewise, the registry will be responsible for granting reciprocity to other states.

Employers must use the registry to determine if a prospective hiree is a certified nurse aide or if she/he has in the past abused, neglected residents or misappropriated their property.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on May 20, 1991 (Volume 17, No. 5, page 517).

RULE

Physician Case Management is defined as individualized planning and service coordination of medical services. Services shall be provided to Medicaid patients who are residents of designated geographic areas.

Enrolled providers shall be licensed physicians, defined as general practitioners, family practitioners, internists, pediatricians, and obstetrician/gynecologists, or group practices with at least one full-time equivalent of one of the above specialties, who are separately enrolled as Medicaid providers. These providers shall be exempt from and, therefore, deemed to have met, state licensure standards for case management. Enrollment as a provider shall be contingent upon agreement to provide services as described herein in addition to physician services rendered in accordance with accepted medical practice.

The case management shall be provided by licensed physicians specializing in general practice, family practice, internal medicine, pediatrics, or obstetrics/gynecology, or by professional staff under the direction of the individual case manager who possesses those qualifications. Maximum caseload size is 500 cases per physician at any given time. General provisions and standards for payment listed in the Title XIX State Plan for case management services shall apply. Special requirements are as follows:

A. 24-hour access. Case Managers must inform Medicaid patients of his/her normal office hours and explain the procedures the recipient should follow when the office is closed. A single 24-hour telephone number must be provided.

B. Provision of basic health services and urgent care. The case manager will serve as the recipient's primary physician, providing basic health care services in accordance with accepted medical practice.

C. Referral for other medical services. Referrals may be made by the case manager to another physician for specialty care or for primary care during his/her absence or non-availability. A referral must be made if the recipient requests a second medical opinion when surgery has been recommended or a second medical opinion is required under Title XIX (Medicaid) for the surgical procedure.

D. Accessibility of care. The primary office location of the case manager shall be in the parish residence of Medicaid beneficiaries to whom services are offered, or may be in a contiguous parish if such location is no less accessible than the offices of providers in the targeted parish. As a condition of participation, referrals shall be made to the nearest appropriate hospital, specialist, or substitute primary care provider.

E. Recording. The case manager shall document and clearly label any individualized planning and service coordination activities in the medical record.

F. Freedom of Choice assistance. The case manager shall assist clients in requesting change in case management providers, or in enrolling or withdrawing from case management.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on May 20, 1991 (Volume 17, No. 5, page 519).

RULE

Reimbursement for Skilled Nursing Facility Services for Infectious Disease (SN/ID) shall be capped at \$230.05 per diem, subject to the established SN payment limitations, standards for participation, and standards for payment with the additional requirements for this Title XIX provider type. At the end of the facility's cost reporting period, the facility shall file a separate long-term care facility cost report or segregate such costs from other nursing services provided, which cost report shall be subject to audit. When audited cost is below the per diem limit, the bureau shall charge back the calculated overpayment amount. No additional payment shall be made for audited cost which exceeds the per diem cap. All participating facilities will be expected to work closely with the bureau to insure that services are provided at the most cost-effective rate.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on May 20, 1991 (Volume 17, No. 5, page 520).

RULE

The Medicaid service described as Skilled Nursing/Technology Dependent Children (SN/TDC) services shall be entitled Skilled Nursing/Technology Dependent Care (SN/TDC) services. The age restriction previously imposed shall no longer apply. All other regulations, including facility requirements, treatment standards, patient medical criteria, and reimbursement methodologies heretofore applicable to

SN/TDC shall remain applicable.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

David L. Ramsey
Secretary

RULE

**Department of Insurance
Insurance Education Advisory Council**

Continuing Education - Rule 10

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, and the Administrative Procedure Act, R.S. 49:950 et seq.

10.2. Purpose

A. 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 only | 16 hours |
| 2. Property-casualty license only | 24 hours |
| 3. Combination of both (P-C & L-H) licenses | 32 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 may be charged a late fee of five dollars.

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 re-

newals 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 have a continuing education requirement for renewal of both licenses with a total of 32 hours of approved instruction. These agents 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 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 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 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, provided that resident state recognizes full reciprocity with Louisiana continuing education requirements.

C. This requirement for the completion of continuing education shall not apply to classes of licenses which are exempt from the requirement of an examination or persons licensed who write industrial fire insurance only.

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 set forth herein.

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;
2. assign the number of continuing education hours to be awarded to programs that are approved;
3. consider applications for exceptions as permitted under rule of this regulation; and
4. 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 commission (Appendix 1) 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 Committee within 60 days of completion of the course on forms promulgated by the commissioner (Appendix 1). 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 in 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 this 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 agent, broker, or solicitor and demonstrate a direct and specific application to insurance.

- i. insurance and risk management;
- ii. insurance laws, regulations and ethics;
- iii. economics, finance, taxes and law as they relate to insurance;
- iv. business environment or management as they relate to insurance.

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. computer science courses;
3. motivation, psychology, communications or sales training courses;
4. general business courses;
5. any program not directly and specifically applicable

to the insurance business, or not in accordance with this regulation.

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 program content and teaching methods. Instructors will be considered qualified if, through formal training or experience, they have obtained sufficient knowledge to instruct the course competently.

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 forms promulgated by the commissioner (Appendix 1) and furnish, for approval by the Insurance Education Advisory Council, a detailed outline of the subject matter to be covered, a list of resource material used, training aids used, the method of presentation, the qualifications of the instructors, and other information supporting the request for approval as outlined in this rule. The outline shall include schedule and description of locations where the program will be offered including dates and times (Appendix 2). 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.

H. The outline 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 as having satisfactorily completed the approved subject. 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 resubmitted to the Insurance Edu-

cation Advisory Council for its review and approval.

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. 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 the information set forth herein with its application in the format required by the commissioner as set forth herein (Appendix 3).

The provider application shall include:

1. Qualifications of the education provider organization including but not limited to the past experience of the provider in conducting insurance education programs.

2. Outlines including a list of resource materials used, detailed description of programs, and cost of programs to participants.

3. Completion of Appendix 4 for the initial certification of the director/supervising instructor to be used in accordance with the requirements and qualifications of instructors set forth herein.

B. Each provider application shall be accompanied by a nonrefundable application fee of \$250.

C. Once approved, the provider shall maintain detailed attendance records for all students for all classes for three years following completion of all classes. These records may be reviewed by the commissioner and the council.

D. 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.

10.8. Instruction Requirements

A. For the purpose of this section, a distinction of types of providers must be acknowledged when prescribing the specific required qualifications for instructors.

B. An insurance trade association as recognized by the commissioner shall submit for approval the education director who will be in a supervisory capacity. Said education director 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 all instructional courses.

C. An insurance company admitted to do business in the State of Louisiana shall submit for approval the education director holding education 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 education director and/or supervising instructors holding education responsibility for the company shall be responsible for assuring the quality of all education programs.

D. 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 on the educational background of the instructor and the insurance experience said instructor may possess.

E. Other organizations recommended by the council

and authorized by the commissioner shall have an educational director certified. The education director shall be assigned the responsibility of conducting the instructional courses. 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.

F. 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.

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.

G. For all instructors, except those specified in Sections B, C and D of this part, the education director or supervising instructor shall submit a form Appendix 4 for each instructor who will participate in the instructional course.

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 addressed.

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 non-credit 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 the conservative equivalency or individual study programs to a comparable seminar or course for credit in an accredited educational institution.

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, CIC, etc.
100%	DIVISION B	Agent Associations Colleges and Universities Company Schools
100%	DIVISION C	Proprietary Schools
50%	DIVISION D	Individual Study
25%	DIVISION E	Miscellaneous Public Speaking 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	
DIVISION A	24 HOURS
DIVISION B	24 HOURS
DIVISION C	24 HOURS
DIVISION D	12 HOURS
DIVISION E	4 HOURS

F. 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 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 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.

B. The application for renewal of a license shall include a signed continuing education statement, under oath, on a form prescribed by the department (Appendix 6), listing the courses that have been taken in compliance with this regulation. Copies of the original certificates of completion bearing the seal of the education provider shall be attached to the continuing education statement (Appendix 6) for each course 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 rest 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 meets the standards of this regulation, or have been significantly changed without notice to the commissioner for its recertification;

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 LRS 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 LRS 22:1351-67.

10.13. Credit for Individual Study Programs

A. In determining whether credit is to be allowed for specific individual study programs, the Insurance Education Advisory Council shall maintain the standards for approval established in this rule and determine the equivalency of the program to a comparable seminar or a comparable course for credit in an accredited educational institution.

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.

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 programs must be submitted for approval by the organization which compiles 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 hours for property-casualty courses or 16 continuing education credit hours for life-health courses.

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 presentations of the same course.

10.15. Effective Date

This regulation shall be effective August 20, 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 expire three years after it becomes effective if the commissioner does not call for a hearing 30 days prior to the expiration date to determine whether the rule should remain in effect, be revised, or allowed to expire.

B. In the event modification of this rule is thought to be necessary, 20 days notice of a hearing shall be given.

C. In the event the statutes pertaining to this rule are changed, requiring modification of this rule, 20 days notice of hearing shall be given.

APPENDIX 1

SUBMIT THIS FORM IN DUPLICATE REQUEST FOR APPROVAL OF CONTINUING EDUCATION CREDIT IN THE STATE OF _____ NAIC APPROVED

Name and Address of Entity/Sponsor Submitting Course Name and Telephone Number of Contact Person

Course Title/Name Date of Course Start Time End Time

If course will be repeated check and attach location scheduled Location City

Primary Instructor Telephone

Method of Instruction Method of Determining Successful Completion Classroom/Lecture Correspondence Final Exam-Supervised Seminar Prof. Assoc. Final Exam-Correspondence College/University Employee Trng. Completed Text Other Instructor Hours of Instruction/Contact Classroom Hours Attendance Other

Credit Hours Requested Course Concentration Life/Health & Accident/Annuities Variable Product Management Property/Casualty Marketing Other Either General General Ins. Principles

States that have approved this course (if filing is pending place "P" in the hours column):

Table with 7 columns: Dept., Hours, Dept., Hours, Dept., Hours, Dept., Hours, Dept., Hours, Dept., Hours. Rows include DE, IA, MN, ND, SD, TN, LA, GA, KS, MS, OR, WA.

Names and Signatures of Instructors Authorized to sign Certificate of Completion:

Name (Typed or Printed) Signature Name (Typed or Printed) Signature

Application for Credit - Each course sponsor must certify the hours of study, on the average, required to successfully complete each course. Credit will be granted in accordance with A) State Regulation, B) review by the Department of Insurance, The Provider agrees to C) maintain a record for not less than three (3) year (five (5) years for Georgia) for persons attending each course, D) provide Certificate of Attendance/Completion with hours earned to successful students upon completion and E) comply with the regulations of the Department of Insurance in conducting Continuing Education courses.

Attachments - 1) Attach course description, outline, Continuing Education objectives, copy of Certificate of Attendance/Completion, promotional material, types of policies, forms, etc. that may be used in considering the submitted course. 2) Attach Instructor biographical statement including typed name and signature. 3) Text must be filed in: (*REQUIRED FOR APPROVAL)

Submitted by Name (Typed or Printed) Signature Date Title Organization

DEPARTMENT USE ONLY

Course approved for _____ hours Life/Acc. & Health/Annuities/Variable Not approved Property/Casualty Comments: Either General

Course certification number: By: Signature Date DEPARTMENT OF INSURANCE

APPENDIX 2

CONTINUING EDUCATION PROVIDER TRAINING SCHEDULE

TRAINING PROVIDER: TRAINING LOCATION: TELEPHONE NUMBERS: INSTRUCTOR(S) :

DATE TIME LOCATION

SIGNATURE OF SUPERVISING INSTRUCTOR

APPENDIX 3

REQUEST FOR PROVIDER APPROVAL

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 OF THE 1989 REGULAR LEGISLATIVE SESSION.

NAME OF PROVIDER ADDRESS CONTACT PERSON TELEPHONE NUMBER

(ATTACH THE APPLICABLE CHANGES)

- 1). COURSE OUTLINE
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:

Rev. 12/11/89

APPENDIX 4

REQUEST FOR INSTRUCTOR APPROVAL

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 or 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. 12/11/89

APPENDIX 5
**CONTINUING EDUCATION
 CERTIFICATION**

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.

Rev. 03/13/91

APPENDIX 6

(TO BE PART OF THE LOUISIANA AGENTS LICENSE RENEWAL APPLICATION)

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.

<u>Course Title</u>	<u>Course No.</u>	<u>Completion Date</u>	<u>Education Provider</u>	<u>Hours Earned</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(ALL CREDITS MUST BE APPROVED BEFORE THEY MAY BE CONTINUING EDUCATION CREDIT).

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. 03/13/91

Darrell L. Cobb
 Deputy Commissioner

(Editor's Note: The following rule, as appeared in the *Louisiana Register*, July, 1991, page 672, is being reprinted to correct a typographical error in §507.H.1.)

RULE

**Department of Public Safety and Corrections
 Office of State Police**

**Title 55
 PUBLIC SAFETY
 Part I. State Police**

Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

Subchapter A. Analysis of Breath

§501. Approval of Instruments to Conduct Blood Alcohol Analysis by Breath Sampling

A. After the Louisiana Department of Public Safety and Corrections has approved a prototype breath testing device as an acceptable model for chemical analysis in blood alcohol testing by breath sampling it shall be necessary for each individual instrument of the approved model to be inspected and approved for use by the Office of State Police, Applied Technology Unit, and an instrument certification form shall be maintained for each individual instrument in the Applied Technology Unit. At least once every four months thereafter, each individual instrument shall be inspected, checked, and certified by the applied technology director, breath analysis supervisor, breath analysis specialist, breath analysis instructor specialist, or applied technology specialist of the Applied Technology Unit and a recertification form shall be maintained in the Applied Technology Unit. A copy of this certificate may be filed with the clerk of the applicable court in the respective parish in which each device is used for blood/breath testing, and this copy shall be prima facie evidence as to the proper working order of the instrument. The inspecting applied technology director, breath analysis supervisor, breath analysis specialist, breath analysis instructor specialist, or applied technology specialist's permit number shall also be affixed to this certificate. Any manufacturer of any apparatus, device, or equipment made for the purpose of analyzing the alcoholic contents of the blood by breath sampling may request the Applied Technology Unit to approve such apparatus, device or equipment. The Applied Technology Unit will consider such a request upon submission of such information, instructions for use, exemplars and other pertinent data as the Applied Technology Unit may request. Before any blood/breath alcohol testing device will be approved it must have undergone inspection and testing by the Applied Technology Unit. This period of testing and evaluation is for the purpose of assuring that an instrument is free of any design error, malfunction or operating problems and accurately and consistently determine the percent weight by volume of alcohol in the blood at the time the test is administered by utilizing the 2100:1 correlation between alcohol in the breath and alcohol in the blood in accordance with the Uniform Vehicle Code.

B. Approval of Instrumentation. The following is the instrument approved by the Louisiana Department of Public Safety and Corrections, the Office of State Police, Applied Technology Unit for analysis of breath specimens for the determination of the blood alcoholic contents therein:

1. Intoxilyzer 5000 manufactured and distributed by

M.P.D, Inc. Owensboro, Kentucky.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:362 (June 1988), repromulgated LR 14:441 (July 1988), amended LR 17:672 (July 1991), repromulgated LR 17: (August 1991).

§503. Operator Qualification

Qualifications for the certification of individuals to conduct breath analysis are as follows:

A. Employee of a Louisiana or federal law enforcement agency.

B. Resident of the state of Louisiana at the time of application, and at least 18 years of age.

C. Graduation from a state accredited high school or satisfactory passing of the General Education Development (G.E.D.) test or an equivalent educational background.

D. A score of 75 percent or better on a 40-hour operator's training course conducted by the Applied Technology Unit or any other course approved by the Applied Technology Unit. Course material to be covered will be taken from the Chemical Test for Intoxication Training Manual and/or the Training Manual for the Intoxilyzer 5000. However, if an individual has already successfully completed a training course in chemical testing the individual may attend a specified course in the operation of the Intoxilyzer 5000.

E. To successfully complete the 40-hour training course and be certified to conduct breath analysis, the individual must:

1. obtain a 75 percent score on the written examination covering course material;

2. obtain a 75 percent score on the actual operation of the instrument and practical examination (running of an unknown alcohol solution). Both the written and the practical examination will be made up by the instructors of the Applied Technology Unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:673 (July 1991), repromulgated LR 17: (August 1991).

§505. Instructor Qualification

Qualification for certification of individuals as instructors shall be as follows:

A. Certified as an operator on the approved instrument by the Applied Technology Unit.

B. Attendance of an additional 40-hour course approved by the Applied Technology Unit.

C. Involved in a chemical testing program approved by the Applied Technology Unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR

14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:673 (July 1991), repromulgated LR 17: (August 1991).

§507. Qualification of Individuals for Instrument Maintenance and Inspection

Qualification of individuals to perform maintenance and inspection on the approved instrument shall be as follows:

A. Employee of the Office of State Police, Applied Technology Unit in the capacity of Applied Technology Director, Breath Analysis Supervisor, Breath Analysis Instructor Specialist, Applied Technology Specialist, or Breath Analysis Specialist, in order to be employed in the capacity of applied technology director, breath analysis supervisor, breath analysis instructor specialist, applied technology specialist, or breath analysis specialist the employee must have met all of the requirements as stated by the Department of Civil Service pertaining to the classification of applied technology director, breath analysis supervisor, breath analysis instructor specialist or applied technology specialist.

B. Graduation from a state accredited high school or the satisfactory passing of the General Education Development (G.E.D.) test or an equivalent educational background.

C. Successful completion of a 40-hour Operator's Training Course.

D. Successful completion of a course on maintenance conducted by the manufacturer of the approved instrument used in blood/breath alcohol testing whereby the individual has received a satisfactory certificate stating such.

E. Complete six months "on-the-job training" whereby the individual shall undergo instructions on the following, but not limited to:

1. calibration of the instrument;
2. checking calibration of the instrument;
3. trouble shooting of the instrument;
4. performance of preventive and regular maintenance;

5. preparation and use of any wet bath simulator and solutions used in the calibration and calibration check;

6. inspection of the instrument received from the manufacturer to insure proper assembly calibration and the overall proper functioning of the instrument.

F. After the individual has completed on-the-job training and qualified on the above specification, then and only then may he be certified to perform maintenance and inspection on the approved blood/breath alcohol testing instrument. The individual will then be certified by the Louisiana Department of Public Safety and Corrections and issued a permit stating such. This permit shall then be prima facie evidence of the individual's qualification to perform such maintenance.

G. The maintenance and/or repair work shall be performed by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist of the Applied Technology Unit, who are certified by the Louisiana Department of Public Safety and Corrections to perform such. The instrument recertification form that is filed with the clerks of the respective courts every four months shall also have the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist permit number affixed to this certificate. This permit number shall be proof as to the certification of the inspecting applied tech-

nology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist by the Louisiana Department of Public Safety and Corrections.

H. The procedure used by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist in the inspections of the instrument at least every four months for the checking of the calibration shall be as follows:

1. A Model Mark II-A wet bath breath alcohol simulator manufactured by Smith and Wesson, Model 34C, and Model 10-4 manufactured by Guth Manufacturing Company, will be used or any other wet bath simulator approved by the United States Department of Transportation.

2. Use of this simulator and preparation of the contents shall be performed according to the instructions as per the manufacturer of the simulator's operating manual.

3. Solutions used in the simulators may also be produced by using a certified stock solution.

4. Once the simulator is made the known alcohol value may be determined by the use of a Gas Chromatograph or any other approved instrument and this will be the "known alcohol value". Calibration check of the instrument shall be within plus or minus 0.010 grams percent of the established "known alcohol value".

5. After the inspections are made by the applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist, and all items are performed according to the maintenance section as listed under the instrument, the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist will then certify that the instrument was in proper working order.

6. Records, or a copy covering maintenance, etc., on the instrument will be kept by the "Applied Technology Unit".

I. Personnel of the Applied Technology Unit shall have the authority to instruct individuals as breath/alcohol testing field supervisors. These individuals will be able to perform minor service, repair and transport the instrument to various locations, run known alcohol solutions, testify in court, monitor the chemical testing program on a local level and confer with the Applied Technology Unit on any related matters pertaining to chemical testing. These individuals will have attended an additional training course whereby they have undergone instructions to perform their outlined duties. These individuals' permit shall state their authority to conduct such duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17: (August 1991).

§509. Permits

Upon determining the qualification of individuals to perform such analysis and duties, and after submitting an application for certification, the Louisiana Department of Public Safety and Corrections shall issue permits which shall

be effective for the following periods with respect to classification.

A. Operator's Certification

1. Operators shall be certified for a period of two years following successful completion of the 40-hour Operator's Training Course. These permits may be renewed after a refresher course given by the Applied Technology Unit or any other agency approved by the Applied Technology Unit.

2. In addition to being certified on any instrument currently approved by the Applied Technology Unit, an operator may also attend a specified course for certification on any new instrument that may be approved by the Applied Technology Unit. These permits shall also be in effect for a period of two years.

B. Breath Alcohol Testing Field Supervisors

1. Breath Alcohol Testing Field Supervisors shall be certified for a period of two years.

C. Instructors

1. Instructors shall be certified for a period of five years. However, once he is no longer involved in a chemical testing program, his certification shall terminate and then only be recertified after he has once again become involved in a chemical testing program and demonstrated his knowledge of instructions to the Applied Technology Director.

D. Maintenance

1. Once an applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist is initially certified, his permit shall remain effective for the duration of his employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985) amended LR 14:363 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17: (August 1991).

§511. Recording Analysis and Recertification Date

A. After each breath analysis, the results shall be recorded in the blood/breath alcohol testing log book, a copy of which is to be sent to the Applied Technology Unit at the end of each month and a copy to be retained at the testing agency.

B. Each time the approved instrument is inspected and certified, the date of certification shall be placed on the instrument and the operator will record said dates on the operational check list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:364 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17: (August 1991).

§513. Procedure for Analysis Using the Intoxilyzer 5000

A. General observation of the subject for a period of not less than 15 minutes prior to testing whereby the subject shall not have ingested alcohol, alcoholic beverages, regurgitated, vomited, or taken anything by mouth.

B. The operator conducting blood/breath analysis

shall conduct such analysis in accordance with the "Intoxilyzer 5000 operational check list" which contains, but is not limited to the following:

1. completing the information section concerning such things as name and driver's license number of the subject, date, instrument number, and certification date;
2. press the start button, insert test record card and check the display panel for instructions;
3. new and clean mouthpiece attached to the breath inlet hose;
4. subject instructed to blow through the mouthpiece sufficiently until the instrument accepts the proper breath sample;
5. remove the test record card and attach it to the checklist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:390-393 (October 1978), amended LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:364 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17: (August 1991).

§515. Maintenance Inspection for the Intoxilyzer 5000

Maintenance inspection shall be performed on a routine basis at least once every four months by the applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist. Items to be inspected shall include, but not be limited to the following:

- A. clean instrument;
- B. running of a known alcohol value thereby checking the instrument and calibration. Results shall be within plus or minus 0.010 grams percent of the known alcohol value;
- C. insure that the instrument is locked;
- D. check printer to see if it is printing out properly;
- E. check breath tube inlet hose;
- F. in event repair work is needed, it shall be recorded in detail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:364 (June 1988), repromulgated LR 14:444 (July 1988), amended LR 17:675 (July 1991), repromulgated LR 17: (August 1991).

Subchapter B. Analysis of Blood

§551. Definition

For purposes of these regulations, alcohol shall mean ethyl alcohol.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:360 (June 1988), LR 17:675 (July 1991), repromulgated LR 17: (August 1991).

§553. Certification; Renewal of Certification; Suspension, Revocation or Cancellation

A. All persons seeking certification to conduct blood alcohol analysis shall:

1. Make application to the Louisiana State Police

Crime Laboratory.

2. Successfully complete an accredited college or university course of study which meets all academic requirements for at least a Bachelor's degree in one of the chemical, physical or biological sciences or a Bachelor's degree in medical technology or forensic science.

3. Successfully complete a course of at least 24 hours instruction concerning blood alcohol testing conducted by the Louisiana State Police Crime Laboratory. This course shall include, but not be limited to, the following: procedures; pharmacology and physiology of alcohol; theory of gas chromatography; maintenance, repair and inspection of instrumentation; and preparation and analysis of blood samples.

4. Conduct certification testing set up by the Louisiana State Police Crime Laboratory, including demonstrating the necessary maintenance and repair knowledge required to certify a gas chromatograph as operating properly.

5. a) Obtain a 75 percent score on the written examination covering course material, and

b) Successful analysis of four certification samples on the operation of the gas chromatograph.

B. Certificates may be renewed upon completion of each of the following:

1. Application to the Louisiana State Police Crime Laboratory.

2. Obtain a 75 percent score on a recertification test given by the Louisiana State Police Crime Laboratory or any other agency approved by the Louisiana State Police Crime Laboratory.

3. Successful analysis of four certification samples as stated in §559.

C. Certification and renewal thereof shall be valid for a period of two years from the date of issuance.

D. Failure to adhere to any of the rules and regulations set forth herein upon establishment of said failure may result in suspension, revocation or cancellation of the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:360 (June 1988), LR 17:675 (July 1991), repromulgated LR 17: (August 1991).

§555. Certified Techniques of Analyst

A. The certified analyst shall inspect instrumentation and equipment immediately before analysis is begun to insure that the instrument is operating properly and that test results will be accurate and within the tolerances indicated below.

B. The methods approved for alcohol analysis of blood are:

1. Gas Chromatography - headspace sampling with internal standard;

2. Gas Chromatography - direct injection with internal standard.

C. Procedures shall include the following controls in conjunction with each batch of samples analyzed:

1. a system blank analysis;

2. analysis of a whole blood control of known alcohol content within the range 0.04 grams percent to 0.40 grams percent the result of which analysis must coincide with the known blood alcohol value of the control specimen \pm 0.01 grams percent if validity is to be assigned to the results for

the batch analyzed.

D. Replicate analysis shall be performed in order to eliminate the possibility of undetected errors.

E. Results shall be expressed in terms of percent w/v (grams percent) that is, grams of alcohol per 100 milliliters of blood rounded downward to the second decimal place, for example, 0.237 grams percent shall be reported as 0.23 grams percent.

F. Analytical procedures for determining the concentration of alcohol in the blood shall meet the following requirements:

1. The accuracy of the procedures shall be such as consistently to attain results within ± 0.01 grams percent of the known value over the range 0.04 grams to 0.40 grams percent in analysis of commercially whole blood controls.

2. The precision of the analysis shall be such as consistently to attain a reproductibility not greater than ± 0.005 grams percent from the mean value in replicate analysis.

3. The blank values yielded by the procedure in analysis of alcohol-free reagents consistently shall be not greater than 0.00 grams percent.

4. Procedures for the analysis of whole blood from living and post mortem subjects shall differentiate ethyl alcohol from all other substances.

G. Blood drawn for the purpose of determining the alcoholic content therein shall have been taken with the contents of a sealed "B-D Blood Alcohol Kit" Numbers 4000, 4990 or 4991 (manufactured by Becton-Dickinson Division of Becton-Dickinson and Company) or similar blood collection kits as approved. Such kits will be made available to all law enforcement agencies by the Louisiana State Police.

1. All kits approved by this department shall contain the necessary preservative to insure stability of the sample as provided by the manufacturer and contain no ethyl alcohol. Each approved kit must be manufactured specifically for blood alcohol determinations in living or post-mortem subjects.

2. Following analysis, the evidence will be stored for a period of one year at room temperature by either the testing facility or the submitting agency and then may be destroyed.

3. The blood sample taken for analysis may be maintained at room temperature and delivered to the designated collection site of each enforcement agency within 24 hours of the end of the collecting officer's shift. It shall be transported then to the laboratory utilized for analysis at the earliest opportunity after collection, not to exceed seven days.

H. Each laboratory performing blood alcohol analysis must submit to the Louisiana State Police Crime Laboratory for approval written procedures with regard to the following minimum standards:

1. Analysis must be performed on a gas chromatograph.

2. Any procedures for blood alcohol determinations as outlined in these rules and regulations shall be considered minimum standards.

3. Maintenance repair and inspection must be in accordance with guidelines listed in §557.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:360 (June 1988), LR 17:676 (July 1991), re-

promulgated LR 17: (August 1991).

§557. Maintenance, Repair and Inspection

A. Maintenance, repair and inspection of a gas chromatograph may be performed by certified blood alcohol analysts. This may include but not be limited to cleaning, replacing septums, changing columns, checking gases and flow rates, checking "O" rings and air filters, adjusting temperature settings and any other routine checks that are deemed necessary for accurate performance. A certified blood alcohol analyst may perform diagnostic testing, as instructed by a service engineer from the manufacturer. Following each maintenance or repair, inspection of the instrument shall include running a known alcohol standard to insure that the instrument is in proper working order. The gas chromatograph shall be inspected and certified by the department at least every 180 days and the certificate issued shall be proof as to the certification and accuracy of the instrument. A log shall be maintained on each gas chromatograph and all inspections and certifications noted therein.

B. A log book listing all repair work, maintenance and inspection shall be kept and will be available for inspection. The minimum information required in the log book shall state the date, time, nature of work, and name of person(s) performing task.

C. At the time of the periodic inspection and certification, the analyst or technician performing said inspection shall perform at least four analyses, the first three of which shall each utilize certified reagent solutions with alcohol concentrations between 0.04 and 0.30 grams percent. The fourth analysis shall utilize a known reagent solution of acetone and ethyl alcohol mixed with deionized water to check the resolution of the gas chromatograph.

D. The department shall formulate a program for the inspection and certification of all gas chromatographs being used for blood alcohol analyses in this state. The completion of the initial inspection and certification shall be on or before January 20, 1992; however, the lack of certification prior to January 20, 1992 shall not be grounds for the disqualification of the accuracy or authenticity of the results obtained from the use of any such gas chromatograph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:361 (June 1988), LR 17:676 (July 1991), re-promulgated LR 17: (August 1991).

§559. Certification Testing

An applicant for certification to perform blood alcohol analysis shall submit for certification testing conducted by the Louisiana State Crime Laboratory.

A. Applicant shall perform analysis on four unknown samples of whole blood at least three of which shall contain ethyl alcohol percentages of between 0.01 grams and 0.30 grams percent. The fourth sample may contain ethyl alcohol within previously stated values, other volatile compounds or a sample free of any volatile compounds.

B. The stock solution used to prepare certification testing shall be from a sealed bottle of 200 proof pure anhydrous grade ethyl alcohol diluted to a concentration of 5g/100ml with deionized water. This will then be diluted further with alcohol-free blood to obtain concentrations within the range listed in the previous section.

C. Blood samples shall be placed in an approved blood alcohol kit and a sample of each unknown shall be tested and retained by the Louisiana State Police Crime Laboratory until applicant is certified.

D. The samples will then be sent to each applicant for alcohol analysis.

E. The applicant shall submit the results of analysis, the completed application, the procedure used for analysis, and all paperwork generated in the process of determining the blood alcohol values to the Louisiana State Police Crime Laboratory.

F. Results must be within a value of ± 10 percent of known values. In addition, paperwork will be reviewed to determine that all procedures were in compliance with these rules and regulations.

G. After review of all paperwork and if results are within accepted ranges, the applicant will be certified as a blood alcohol analyst and will be issued a blood alcohol analyst certificate. This certificate will be valid for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:361 (June 1988), LR 17:676 (July 1991), repromulgated LR 17: (August 1991).

§561. Quality of Glassware and Supplies

A. All non-disposable glassware used in the blood alcohol analyses and standard calibration solutions must be cleaned with non-alcoholic detergents and must be free of any foreign residue.

B. All non-disposable supplies must be cleaned and contain no interfering substances which could affect the blood alcohol analysis test.

C. All chemicals used shall be at least reagent grade.

D. All reagent solutions utilized in the testing, maintenance and certification shall be drawn from commercially available solutions with known and certified alcohol contents between 0.04 grams and 0.40 grams percent. Each lot of pre-prepared solutions shall be spot checked by the department for conformity to the value certified by the manufacturer. The manufacturer's certificate of standard reagent quality shall be prima facie evidence as to the standard of quality of the reagent solutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:361 (June 1988), LR 17:677 (July 1991), repromulgated LR 17: (August 1991).

§563. Proficiency Testing

Each laboratory providing blood alcohol analysis is to participate in a regional or national proficiency testing program at least twice a year or a proficiency testing program conducted by the State Police Crime Laboratory, which participation shall be certified for each such laboratory. A copy of the results shall be forwarded to the State Police Crime Laboratory in Baton Rouge, Louisiana within 30 days of receipt by each laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 6:660 (November 1980), amended LR 11:256 (March 1985), amended LR 14:361 (June 1988), LR 17:677 (July 1991), repromulgated LR 17: (August 1991).

§565. Certified Personnel

Each "chemist" and each "qualified technician," as these terms are utilized in R.S. 32:664, must be certified by an accredited licensing agency as a certified phlebotomist in order to remove blood samples for purposes of determining alcoholic content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17:677 (July 1991), repromulgated LR 17: (August 1991).

Col. Marlin A. Flores
Deputy Secretary

RULE

Department of Public Safety and Corrections Office of State Police

Title 55 PUBLIC SAFETY Part I. State Police

Chapter 22. Commercial Lessors

§2201. Licensing of Commercial Lessors

A. Any person, corporation or other legal entity desiring to act as a commercial lessor in this state shall:

1. comply with and meet all criteria as set forth in R.S. 33:4861.1 et seq., R.S. 40:1485.1 et seq., and the administrative provisions of LAC 55:1.1701 et seq. and as subsequently amended;

2. be issued and maintain all applicable federal, state, parish and municipal licenses; and

3. apply for a license on forms prescribed by the division and submit with the application a non-refundable \$200 annual license fee.

B. Licensed commercial lessors must apply for license renewal on forms prescribed by the division no less than 30 days prior to the expiration date and submit with the renewal application a non-refundable \$200 annual license fee.

C. No person, corporation or other legal entity shall act as a commercial lessor until such license is granted by the division.

D. The licensee shall conspicuously display its commercial lessor's license issued by the division at the premises where any charitable game of chance is conducted at all times during such conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4 and R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17: (August 1991).

§2203. Background Investigation

A. Each person serving in relation to a commercial

lessor as owner, partner, shareholder holding more than 5 percent ownership interest, director, manager or employee shall cooperate with the division's background investigation. Such cooperation shall include, but not be limited to, fully and truthfully completing all application forms, fully and truthfully answering investigators' pertinent questions, and supplying fingerprint samples when requested by the division.

B. The initial application form, as attached hereto and made a part of, is deemed to be a continuing application. All applicants and licensees shall notify the division in writing of all changes within 10 days of the change.

(Editor's Note: The application form referenced to in the following rule is on file at the Office of the State Register and is available upon request from the Division of Charitable Control, Office of the State Police.)

1. The application forms for the business shall include, but not be limited to inquiries relative to the following categories: the building, owners, equipment, vendors, and employees.

2. The application forms for each owner, partner, shareholder holding more than 5 percent ownership interest, director, manager or employee shall include, but not be limited to inquiries relative to the following categories: personal biography, marital history, family members, military history, criminal history, employment history, character references, gaming or liquor licenses, and organization memberships.

C. If the cost of a background investigation of the applicant and his business exceeds \$200, the applicant will be given notice of these anticipated additional costs and the option to pay said costs prior to the expenditure by the division, and applicant will be responsible for said additional costs it elects to incur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4 and R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17: (August 1991).

§2205. Expiration of License/Reissuance

A. All licenses for commercial lessors issued pursuant to these rules expire at midnight, June 30 of each year.

B. The division will consider the same criteria for renewal of licenses as for the original issuance of licenses. Failure to satisfy license criteria rules may result in denial, suspension, or revocation of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4 and R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17: (August 1991).

§2207. Gifts Prohibited

A. No commercial lessor shall directly or indirectly conduct raffles, or provide to the players, patrons, spectators or charitable organization members or workers present at the commercial lessor's premises anything of economic value in the form of a gift or a prize regardless of whether or not compensation is required for receipt of the prize or gift. This prohibition excludes nominal promotional items possessing a retail value of less than \$5 and containing prominently printed advertising which includes the name of the commercial lessor providing the item.

B. No commercial lessor shall loan money to a charitable organization.

C. Nothing shall prohibit the commercial lessor from forbearing or reducing the rent to an amount less than the amount stipulated by written lease; however, the commercial lessor shall not be allowed to reclaim the amount of any reduction or forbearance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4 and R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17: (August 1991).

§2209. Prohibitions

A. No commercial lessor, employee or agent thereof shall take part in or assist with the holding, operating, or conducting of a game of chance. Prohibited participation and assistance by the commercial lessor includes, but is not limited to being actively involved in decisions made by a charitable organization relative to the following:

1. the number of games per session;
2. the type of games of chance to be conducted;
3. the winning arrangement of numbers;
4. the payout per game;
5. the payout per session;

6. a dispute between an organization and a patron, except as necessary to prevent a disturbance or damage to persons or property;

7. the type of paper, pull tabs or raffle tickets to be utilized;

8. the distributor from which the organization purchases its supplies;

9. the workers the organization employs, including accountants, attorneys and workers for gaming sessions (excluding location employees, such as concession and janitorial personnel);

10. the handling, counting, and depositing of gaming proceeds; or

11. the dates, times, and locations an organization conducts its games of chance after having been licensed by the division.

B. Nothing in this section shall be construed to prohibit a commercial lessor from making a suggestion concerning an organization's charitable gaming activity provided that noncompliance with the suggestion does not result in any adverse impact on the organization.

C. No commercial lessor shall directly or indirectly sell, donate or otherwise distribute rights of participation in any game of chance regardless of whether permitted by law or licensed by the division at the premises provided in its application or where charitable games of chance are conducted.

D. No commercial lessor shall loan, rent, or otherwise provide space to a gaming supplies distributor to store unsold gaming supplies on the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4 and R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17: (August 1991).

§2211. Storage Lockers

A. A licensed commercial lessor may furnish a storage locker or cabinet to an organization for its gaming supplies; however, the locker shall be constructed in such a manner that supplies cannot be removed without a key or undue effort and damage to the cabinet or lock.

B. No commercial lessor, employee, or agent thereof shall have access to a storage locker or cabinet used by an organization for storage of gaming supplies. If the lock is furnished by the commercial lessor, all keys shall be given to the organization.

C. Reasonable locksmith's fees may be assessed to any organization that loses the key or fails to return the key upon vacating the locker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4 and R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17: (August 1991).

§2213. Lease Agreement

A. A commercial lessor providing premises, whether for payment or no charge, to a charitable organization for the purpose of conducting a game of chance shall provide the organization with a written lease agreement. The agreement shall include but not be limited to:

1. name of location;
2. address of location;
3. name of organization;
4. amount of rent;
5. date of expiration;

6. provisions for cancellation of the lease with 30 days written notice by either party without cause;

7. signature of commercial lessor or his authorized agent;

8. signature of organization official; and

9. the dates and times during which the organization has agreed to conduct games of chance.

B. No lease agreement shall provide for a session less than four hours.

C. No commercial lessor shall assess a fee or charge rent to any organization which cannot honor its allotted time slot due to action taken by the division or delay in processing an application.

D. No commercial lessor shall assess fees to any charitable organization in addition to the rent stipulated by written lease or as reduced in accordance with §2207.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4 and R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17: (August 1991).

§2215. Combination of Interests Prohibited

A. No person licensed as a commercial lessor or his immediate family shall:

1. have a direct or indirect financial interest in any entity which manufactures or distributes supplies or equipment for charitable games of chance;

2. serve as a proprietor, employee, officer, director, shareholder or owner of more than 2 percent ownership interest, of any entity which manufactures or distributes supplies or equipment for charitable games of chance;

3. serve as an officer or director of any charitable organization which rents, leases, or uses the commercial premises for conducting games of chance; or

4. hold, operate, conduct or assist in the holding, operating or conducting of a charitable game of chance at the commercial premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4 and R.S. 33:4861.17.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 17: (August 1991).

Col. Marlin A. Flores
Deputy Secretary

RULE

Department of Social Services Office of Family Support

The Department of Social Services, Office of Family Support, proposes to adopt the following rule in the Aid to Families with Dependent Children (AFDC), Refugee Cash Assistance (RCA) and Food Stamp Programs.

This rule is mandated by Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990, which contains an amendment to the Computer Matching and Privacy Protection Act of 1988. The amendment changes the Computer Matching and Privacy Protection Act's due process requirements.

With the adoption of this rule, the following rule is hereby repealed: "Food Stamp/Assistance Payments Programs-Computer Matching-due process," Vol. 16, No. 4, April 20, 1990, page 321.

RULE

Due process will be provided to applicants for and recipients of benefits in the Aid to Families with Dependent Children, Refugee Cash Assistance and Food Stamp Programs, who are subject to computer matches, as follows:

Recipients may not have their benefits suspended or reduced based on the information received in a computer match until the expiration of the appropriate adverse action notice period for the program, which is 10 days under usual circumstances.

May Nelson
Secretary

RULE

Department of Social Services Office of Family Support

The Department of Social Services, Office of Family Support, has repealed the rules that are listed below. They were not repealed by subsequent rules. The following listing of repealed rules indicates the issue of the *Louisiana Register* in which they were originally published and a statement of their topic.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) RULES TO BE REPEALED

LR 3:72 (February 1977) - Policy on employment and training in the Indo-Chinese Program

LR 3:100 (March 1977) - Revised standards for aid to families with dependent children

LR 3:419 (October 1977) - Policy on power driven conveyances

LR 3:420 (October 1977) - Mandatory work registration for AFDC recipients
 LR 4:4 (January 1978) - Need standard for AFDC and GA programs
 LR 4:295 (August 1978) - Increases in AFDC and GA
 LR 4:511 (December 1978) - AFDC and GA need standard
 LR 5:281 (September 1979) - AFDC and GA increases
 LR 6:13 (January 1980) - AFDC and GA need standards increase
 LR 6:603 (October 1980) - AFDC and GA need standards increase
 LR 7:188 (April 1981) - AFDC/GA need standards increases
 LR 7:627 (December 1981) - AFDC/GA program increases
 LR 8:235 (May 1982) - Retrospective budgeting
 LR 8:341 (July 1982) - AFDC incapacity reporting
 LR 8:342 (July 1982) - Food stamp reporting
 LR 8:343 (July 1982) - Monthly reporting requirements
 LR 8:648 (December 1982) - AFDC/GA need standard increases
 LR 8:189 (January 1982) - amended LR 9:684 (October 1983) - AFDC and Refugee resettlement program changes
 LR 8:189 (January 1982) - amended LR 9:838 (December 1983) - Good cause and timely reporting in assistance payments monthly reporting
 LR 9:686 (October 1983) - WIN - EBR Parish, AFDC program
 LR 9:837 (December 1983) - AFDC/GA need standard increase
 LR 9:839 (December 1983) - Reinstatement in assistance payments, retrospective budgeting and monthly reporting
 LR 10:7 (January 1984) - Earned income tax credits
 LR 10:1029 (December 1984) - AFDC/GA need standard increase
 LR 11:1078 (November 1985) - AFDC/GA need standard increase
 LR 11:1146 (December 1985) - AFDC/RCA monthly reporting
 LR 12:768 (November 1986) - AFDC need standard
 LR 13:750 (December 1987) - AFDC need standard
FOOD STAMP PROGRAM RULES TO BE REPEALED
 LR 1:220 (May 1975) - Food Stamp Program
 LR 3:271 (June 1977) - Revision of income standards and Basis of Issuance in the Food Stamp Program
 LR 3:496 (December 1977) - Income Standards and Basis of Issuance in the Food Stamp Program
 LR 4:227 (June 1978) - Income Standards and Basis of Issuance in the Food Stamp Program
 LR 5:245 (August 1979) - Increases in the Food Stamp Program
 LR 6:13 (January 1980) - Food Stamp coupon allotment adjustment
 LR 8:75 (February 1982) - Food Stamp requirements
 LR 8:235 (May 1982) - Retrospective budgeting
 LR 8:341 (July 1982) - AFDC incapacity reporting
 LR 8:342 (July 1982) - Food stamp reporting
 LR 8:343 (July 1982) - Monthly reporting requirements
 LR 8:649 (December 1982) - Amend reporting, budgeting in Food Stamp Program

LR 9:685 (October 1983) - Retrospective budgeting in the Food Stamp Program
 LR 9:839 (December 1983) - Retrospective budgeting and monthly reporting
 LR 10:9 (January 1984) - Standard utility allowance for food stamps
 LR 10:1031 (February 1984) - Standard utility allowance for food stamps
 LR 11:1146 (December 1985) - Monthly reporting in food stamps
 LR 12:366 (June 1986) - Job search services
 LR 12:423 (July 1986) - Annualization of interest income for retrospective budgeted monthly reporting households
 LR 13:498 (September 1987) - Monthly reporting
REFUGEE CASH ASSISTANCE RULES TO BE REPEALED
 LR 3:72 (February 1977) - Policy on employment and training in the Indo-Chinese Refugee Assistance Program
 LR 4:107 (April 1978) - Date change of checks
 LR 10:7 (January 1984) - Earned income tax credits
 LR 11:1146 (December 1985) - Monthly reporting in Food Stamps
 LR 14:871 (December 1988) - Cuban/Haitian program limitation
 LR 15:553 (July 1989) - RCA recipients in monthly reporting
REFUGEE RESETTLEMENT PROGRAM RULES TO BE REPEALED
 LR 8:66 (February 1982) - Cuban Haitian entrants program
 LR 8:189 (April 1982) - Cuban Haitian program limitation
 LR 8:235 (May 1982) - Retrospective budgeting
 LR 8:343 (July 1982) - Monthly reporting requirements
 LR 9:839 (December 1983) - Retrospective budgeting and monthly reporting
SUPPORT ENFORCEMENT PROGRAM RULES TO BE REPEALED
 LR 8:510 (October 1982) - Federal tax return offset
 LR 9:62 (February 1983) - Assign support payments retained by AFDC recipients
 LR 9:132 (March 1983) - Involuntary military allotments, IV-D
 LR 9:465 (July 1983) - Elimination of double support payments
 LR 13:497 (September 1987) - Award guidelines

May Nelson
 Secretary

RULE

Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors

In accordance with the notice of intent published in the *Louisiana Register*, Volume 17, Number 5, page 524 on May 20, 1991, the Board of Registration for Professional En-

gineers and Land Surveyors hereby adopts the following addition to Louisiana Administrative Code 46:LXI.Chapters 1 and 15:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXI. Professional Engineers and Land Surveyors

Chapter 1. General Provisions

§105. Definitions

A. - B. 1. ...

2. Teaching of engineering design and the responsible charge of the teaching of engineering design shall be considered as the practice of professional engineering. Associate professors and those of higher rank teaching engineering design courses who become employed by a college or university in the state of Louisiana on January 1, 1991, and thereafter, shall be registered professional engineers of the Louisiana board. Such professors who become employed on or after January 1, 1991, shall have a period of two years in which to become registered. The assistant professors and those of higher rank teaching engineering design courses in the employ of a college or university in the state of Louisiana prior to January 1, 1991, are exempt from professional engineering registration as long as they remain in continuous employment by a college or university in the state of Louisiana. Those persons who are exempt from professional engineering registration are exempt only for the purpose of the teaching of engineering design and they may not present themselves to the public as engineers or professional engineers or provide or offer to provide engineering services as defined by R.S. 37:682(8).

C. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:682.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17: (August 1991).

Chapter 15. Examinations

§1503. Approval to Take the Fundamentals of Engineering Examinations

A. - E. ...

F. The board may allow the substitution of a written qualifying examination for the fundamentals of engineering examination for any applicant who has an earned doctorate from a college or university having an undergraduate curriculum accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:683.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:88 (March 1978), amended LR 5:113 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), LR 10:805 (October 1984), LR 14:449 (July 1988), LR 17: (August 1991).

Paul L. Landry, P.E.
Executive Secretary

RULE

Department of Wildlife and Fisheries Office of Fisheries

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Wildlife and Fisheries hereby adopts the following regulations governing the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia and/or their hybrids in Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture - Exotic Species

§903. Tilapia

A. Importation, Culture, Possession and Disposal of Tilapia in Louisiana

The following terms shall have the following meaning in this document.

1. *Culture* - all activities associated with the propagation and nurturing of tilapia.

2. *Culture system* - shall be a closed system and designed such that all water containing, or that at any time might contain, tilapia (adult fish, juvenile fish, or fish eggs) is filtered, recirculated and prevented from any discharge.

3. *Disposal* - the business of processing, selling, or purposely removing tilapia from the culture system.

4. *Department* - the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

5. *Secretary* - the secretary of the Louisiana Department of Wildlife and Fisheries.

6. *Tilapia permit* - official document that identifies the terms of, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia in Louisiana as approved by the secretary.

7. *Tilapia* - eggs, fish, or body parts belonging to the genera *Tilapia*, *Sarotherdon*, or *Oreochromis* and their hybrids.

8. *Permittee* - the individual or organization that possesses a valid Louisiana tilapia permit.

B. Tilapia Permit Request

1. Individuals or organizations wishing to import, export, transport, culture, possess, dispose, transfer or sell live tilapia in Louisiana must first request a permit from the secretary of the Louisiana Department of Wildlife and Fisheries. The following procedures will be necessary:

a. Applications for permits can be obtained by contacting the administrator, Inland Fish Division; Louisiana Department of Wildlife and Fisheries; Box 98000; Baton Rouge, LA 70898-9000.

b. The completed applications should be returned to the same address whereby Inland Fish Division personnel will review the application. Department personnel or a department-approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a tilapia permit. Department personnel will then recommend to the administrator if the applicant's request should be approved or disapproved.

d. The secretary will notify the applicant, in writing, as to whether or not the permit has been granted and if not, why. In the event of disapproval, applicants may re-apply after correcting specified deficiencies noted in the secretary's letter of denial.

C. Transport of Live Tilapia

1. For each occurrence when the permittee wishes to import, export, transport, possess, transfer, or sell live tilapia, the permittee must obtain, in writing, approval from the department. In addition, if live tilapia are transported into or within the state of Louisiana, anyone taking possession of these live tilapia must also have a tilapia permit. Live tilapia showing signs of diseases shall not be transported into or within the state of Louisiana. Following are procedures and necessary information for obtaining approval.

a. Requests shall be made to: Administrator, Inland Fish Division; Louisiana Department of Wildlife and Fisheries; Box 98000; Baton Rouge, LA 70898-9000.

b. Request shall include:

i. Louisiana tilapia permit number, or a copy of the permit;

ii. route of transport;

iii. date of transport;

iv. time(s) of transport;

v. destination;

vi. owner of transport vehicle;

vii. electrophoretic certification which must identify stock(s) to species;

viii. total number of each species;

ix. identification of seller and buyer.

2. A bill of lading must accompany those individuals in possession of live tilapia during import, export, transport, transfer or sale and shall include:

a. copy of the permittee's written approval as described in Clause i above;

b. date and approximate time of shipment;

c. route of shipment;

d. source of tilapia (culture facility);

e. name, address and phone number of seller;

f. name, address and phone number of buyer;

g. identification and certification as to species;

h. total number of each species;

i. destination;

j. letter from source stating that tilapia are not showing signs of diseases;

k. display the word "TILAPIA" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than six inches high.

D. Security of Tilapia Culture Facility

1. Applicant must demonstrate to the satisfaction of department officials that adequate security measures are in place at the culture facility that will guard against vandalism and theft of tilapia.

2. Any changes or modification of a permitted security system must first have the approval of department officials.

3. The department will have just cause to revoke a tilapia permit for lapses in security if: 1) the permittee is found to be in non-compliance with Paragraphs 1 and 2 above; 2) the permittee is determined to be derelict in maintaining the security measures that were approved for the permit; 3) failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

4. It shall be the responsibility of the permittee to im-

mediately notify the secretary of any tilapia that leave the facility for any reason, including but not limited to accidental releases, theft, etc.

5. It shall be the responsibility of the permittee to have at least one individual who is familiar with the culture system readily available for emergencies, inspections, etc.

E. Tilapia Culture Site

1. A legal description of the tilapia culture facility site that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department-approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property, culture system and fish. Additionally, department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the tilapia culture facility must be at least one foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

F. Tilapia Culture System

1. Applicant must provide a detailed narrative description, including scale drawings, of the tilapia culture system.

2. The tilapia culture system shall be a closed system designed such that tilapia eggs, larvae, juveniles or adults cannot escape.

3. All water utilized in the culture of tilapia shall be accounted for and shall not leave the permittee's property.

4. All aspects of the tilapia culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

G. Processing of Tilapia

1. All processing of tilapia shall only occur at a department-approved permitted processing facility, and in a manner that will prevent escapement of eggs, larvae, juveniles and/or adults.

2. Records shall be kept of all processed tilapia and include the following information:

a. species;

b. processed pounds;

c. date processed;

d. name of processor;

e. buyer of processed fish.

3. A copy of this information shall be sent to the department's Baton Rouge office at the end of each year, or at any time upon the request of department officials.

H. Rules for Tilapia

1. The cost of a tilapia permit shall be \$50, plus the actual cost of the on-site inspection. Qualified universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, a Fish Farming License from the department is required.

3. Permits are valid for 12 months.

4. Permits are not transferable from person to person, or property to property.

5. Live tilapia, fish or eggs, may be sold only to a holder of a valid tilapia permit.

6. No person may release live tilapia, fish or eggs, into the waters of Louisiana (whether public or private) without the written approval of the secretary.

7. Permittee must agree to collect and provide an adequate number of tilapia to the department or a department-approved contractor upon request for identification and analysis, at the permittee's expense.

8. Only those persons or organizations with valid tilapia permits may propagate, culture or possess the following species and/or hybrids produced from their crosses.

Tilapia aurea *Tilapia nilotica*
Tilapia mossambica *Tilapia hornorum*

9. The permittee shall be required to submit an annual report to the secretary on a form provided by the department.

10. The department may employ whatever means it deems necessary to prevent the release or escapement of tilapia or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during corrective actions.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill his financial obligation, the permittee shall post a \$25,000 bond.

12. If a permittee terminates tilapia production, the permittee shall notify the secretary immediately and dispose of the tilapia according to methods approved by the department.

13. In addition to all other legal remedies, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All tilapia shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17: (August 1991).

A. Kell McInnis III
Acting Secretary

RULE

Department of Wildlife and Fisheries Office of Fisheries

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq, the Department of Wildlife and Fisheries hereby adopts the following regulations governing the importation, transportation, possession, disposal, and sale of live triploid grass carp in Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture - Exotic Species

§901. Triploid Grass Carp

A. Introduction of Triploid Grass Carp in Commercial Catfish Culture Ponds

The following terms shall have the following meaning in this document:

1. *Catfish culture* - all activities associated with raising catfish from eggs to adult size.

2. *Commercial catfish farmer* - Any commercial catfish operator whose ponds are stocked with a minimum of 1500 catfish per acre and who markets 85 percent of his catfish.

3. *Triploid carp culture* - all activities associated with raising triploid grass carp from fingerling (not less than six inches in length) to adult size.

4. *Culture system* - shall be a system used for catfish culture and designed such that all triploid grass carp are prevented from escaping.

5. *Department* - the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

6. *Secretary* - the secretary of the Louisiana Department of Wildlife and Fisheries.

7. *Triploid grass carp culture permit* - the official document that identifies the terms of, and allows for the importation, transportation, possession, disposal, and sale of live triploid grass carp in Louisiana as approved by the secretary.

8. *Triploid grass carp* - refers to *Ctenopharyngodon idella* fingerlings and larger individuals that are certified as triploid (3N chromosomes) by the U.S. Fish and Wildlife Service or an agency or contractor approved by the department.

9. *Permittee* - the individual, business, corporation or organization that possess a valid Louisiana triploid grass carp culture permit.

10. *Disposal* - the business of processing, selling, eradicating or purposely removing triploid grass carp from a culture system.

B. Triploid Grass Carp Culture Permit Request
Catfish farmers wishing to import, transport, culture, possess, dispose, or sell live triploid grass carp in Louisiana must first request a permit from the secretary of the Louisiana Department of Wildlife and Fisheries.

The following procedures will be necessary.

1. Applications for permits can be obtained by contacting the administrator, Inland Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

2. The completed applications should be returned to the same address whereby Inland Fish Division personnel will review the application. Department personnel or a department-approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

3. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a triploid grass carp culture permit. Department personnel will then recommend to the administrator if the applicant's request should be approved or disapproved.

4. The secretary will notify the applicant, in writing, as to whether or not the permit has been granted and if not,

why. In the event of disapproval, applicants may re-apply after correcting specified deficiencies noted in the secretary's letter of denial.

C. Transport of Triploid Grass Carp for Culture

1. For each occurrence when the permittee wishes to import, transport, possess, or sell live triploid grass carp, the permittee must obtain, in writing, approval from the department. Following are procedures and necessary information for obtaining approval.

a. Requests shall be made to the administrator, Inland Fish Division, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

b. Requests shall include:

i. Louisiana triploid grass carp permit number, or a copy of the permit;

ii. route of transport;

iii. date of transport;

iv. time(s) of transport;

v. destination;

vi. owner of transport vehicle;

vii. total number of fish;

viii. identification of seller and buyer.

2. A bill of lading must accompany those individuals in possession of live triploid grass carp during transportation and shall include:

a. copy of the permittee's written approval as described in clause i. above;

b. date and approximate time of shipment;

c. route of shipment;

d. source of triploid grass carp (hatchery, culture pond, etc.);

e. name, address and phone number of seller;

f. name, address and phone number of buyer;

g. copy of triploid certification;

h. total number of fish;

i. destination;

j. Display the words "TRIPLOID GRASS CARP" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than six inches high.

D. Triploid Grass Carp Culture Site

1. A legal description of the catfish culture property that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department-approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property, culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove and take fish samples for analysis and/or inspection.

3. All catfish culture ponds that will contain triploid grass carp must have levees at least one foot above the 100-year flood elevation.

4. Triploid grass carp will be permitted only in commercial catfish culture ponds.

E. Triploid Grass Carp Culture

1. The cost of a Triploid Grass Carp Culture Permit shall be \$50, plus the actual cost of the on-site inspection. Qualified universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, a Fish Farming License from the department is required.

3. Permits are valid for 12 months.

4. Permits are not transferable from person to person or property to property.

5. Live triploid grass carp may be sold only to a commercial catfish farmer permitted to possess triploid grass carp.

6. No person may release live triploid grass carp into the waters of Louisiana (whether public or private) without the written approval of the secretary.

7. Permittee must agree to collect and provide an adequate number of triploid grass carp to the department or a department-approved contractor upon request to verify triploidy, at the permittee's expense.

8. No eggs, fry or fingerlings under six inches in total length shall be transported, shipped, possessed, stocked or sold in Louisiana.

9. Water discharge from all culture systems stocked with triploid grass carp must have appropriate barriers designed to prevent escapement of triploid grass carp and constructed with rigid, sturdy screens of a size no larger than one-half inch square mesh.

10. The department may employ whatever means it deems necessary to prevent the release or escapement of triploid grass carp or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during these corrective actions.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions.

12. If a permittee terminates the use of triploid grass carp in catfish culture ponds, the permittee shall notify the secretary immediately and dispose of the triploid grass carp according to methods approved by the department.

13. In addition to all other legal remedies, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17: (August 1991).

A. Kell McInnis III
Acting Secretary

RULE

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Wildlife and Fisheries adopted the following rule regarding Oyster Lease Moratorium.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§500. Lifting of Oyster Lease Moratorium

A. The moratorium for the taking of oyster lease applications established by the Wildlife and Fisheries Commission in April, 1978, will be permanently lifted. At that time applications for oyster leases will be accepted in accordance with all applicable statutes, rules and regulations and the procedures set out below. One week prior to the date that the moratorium is lifted, the date, time and place where applications are to be taken will be publicly advertised. For purposes of and only for purposes of this final lifting of the moratorium, the New Orleans Royal Street office will not be the site.

B. On the date for taking of applications only one applicant will be allowed in the office to take one application. The applicant will have 15 minutes to designate the area he wishes to apply for.

C. Applications will be taken 24 hours a day (on a first come basis) until the department feels the influx of people can be handled at the regular office hours at the New Orleans Office, at which time anyone will be able to take an application.

D. After applicant pays the application and survey fees he may return to the end of the line for another application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and 56:422.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17: (August 1991).

§501. Oyster Leases

A. Office Policies and Procedures

1. Office hours will be from 8 a.m. to 4:30 p.m., Monday through Friday excluding state holidays.

2. No one is to go into the lease document or quadrangle files, or application registration without permission of and accompaniment by designated office personnel.

B. Taking of Oyster Lease Applications

1. There shall be a 50-foot buffer zone established between new leases. However, by mutual written consent of applicants of adjacent water bottoms the lease boundaries may be common.

a. Where distances between oyster leases or between oyster leases and the shoreline are 200 feet or less, no applications or leases shall be taken or issued except that the intervening space may be shared equally by the existing leases or applicants if properly applied for and leased in accordance with existing policies and practices.

b. No new application will be taken or lease issued whose length exceeds its narrowest width by more than a factor of three except as follows:

i. between existing leases where all available water bottoms are taken;

ii. in bayous (or similar configurations connections or cuts between bays, lakes and ponds, etc.) where all available water bottoms are taken with a subservient clause prohibiting an impedance of reasonable navigation.

c. Any application for an oyster lease may be contoured to follow the shoreline.

d. No application will be taken to incorporate an existing lease or leases plus additional acreage when less than three years remain in the terms(s) of said lease or leases.

2. If an applicant does not keep his appointment with a surveyor his application will be cancelled. The applicant will be notified of action taken and be given an opportunity to reinstate the application with an additional payment of the survey fee within 14 days of the cancellation notice. When the department surveyor cannot keep his appointment all efforts will be made to notify the applicant.

3. a. If any survey of existing leases by the surveyor of the department shows an overlap, the department will abstract the leases involved and eliminate the overlap, giving the area to the longest continuously uninterrupted lease and shall notify the lessees of the action.

b. All surveys for new area will be computed at a 50-foot offset from all existing leases. If applicant wishes to share common boundaries with the adjacent lease or leases, the applicant must submit to the survey section written consent from the adjacent lease owner or owners (even if lease or leases are in same name as the applicant) no later than Thursday prior to the week the work is scheduled.

4. All applicants must appear in this office to place applications for survey and lease, or provide power of attorney to agents to act in their behalf.

5. Annual rental notices will be mailed to lessees at least 30 days in advance of due date which is January 1 of each year.

6. A fee of \$10 per lease will be charged for transfer of oyster lease.

7. A fee for all extra maps, leases, plats or documents, will be charged as follows:

All maps	\$ 10 per copy
Plats	\$ 5 per copy
Lease Documents	\$ 5 per copy
Other materials	\$ 1 per copy
Computations	\$ 2 per point
(Lambert to Latitude/Longitude)	

8. Survey Application Fees

a. Survey application fees for new leases will be as follows:

Acres	Dollars
10 or less	\$200
11 - 20	\$250
21 - 200	\$ 3.50 additional for each acre after 20
201 - 1000	\$ 2 additional for each acre after 200

An additional survey fee of \$10 for each shotpoint in excess of six, excluding shore shorts, will be paid prior to approval of any lease.

b. Survey application fees on leases expiring by 15-year limitation are established as follows:

Acres	Dollars
10 or less	\$150
11 - 20	\$250
21 - 200	\$ 2.50 additional for each acre after 20
201 - 1000	\$ 1.50 additional for each acre after 200

An additional survey fee of \$10 for each shotpoint in excess of six, excluding shore shots.

c. Survey application fees for RESTAKES of one's own lease are established as follows:

\$25 per shotpoint

d. Survey application fees for RESTAKES of someone else's lease are established as follows:

\$90 for the first two shotpoints

\$50 for each additional shotpoint thereafter

e. The Survey Section shall notify owner(s) of lease to be restaked.

C. Private Surveyors Surveying Oyster Leases for Oyster Farmer

1. All surveyors must appear in person in the office of the Survey Section of the Department of Wildlife and Fisheries to research information pertinent to their surveys.

2. Surveyor to be charged the basic rate for copies of documents needed.

3. All controls and corners of oyster surveys to be tied into the Louisiana State Plane Coordinates System.

4. All surveys must comply with R.S. 56:427B which requires the lease not to exceed the initial application by more than 10 percent compliance by negotiation with the applicant. If unacceptable, application will be cancelled and all fees forfeited.

5. Surveyors to execute properly survey's certificate appearing on reverse side of original application on file in the Oyster Lease Survey Section, or a photocopy of the original.

6. Surveyors must furnish the Department of Wildlife and Fisheries Survey Section with the original field notes on standard 4-1/2 x 7-1/2 looseleaf sheets.

7. Surveyors to note in the original field notes any activity in or adjacent to or on surveyed area, or any existing structures, etc.

8. Survey plats to be drawn in black ink on forms furnished by the Louisiana Department of Wildlife and Fisheries Oyster Lease Section and original tracing to become the property of same.

9. The acreage of all surveys, even though calculated to tenth or hundredth of acre, to be rounded off to the next highest acre.

10. Application number and ownership on all survey plats to be shown on original application.

11. No land area to be included in survey. Probing to be done at random throughout the surveyed area to determine type of bottom and results noted on original field notes, along with tidal information.

12. Use standard signs and symbols.

13. If an applicant knowingly has a private surveyor survey over an existing lease, application, or land area, that application or lease is cancelled and will constitute cause for the private surveyor to be barred from surveying oyster leases for a one-year period.

14. Noncompliance with any requirement established by law or by these rules, after 30-day notification from the department by certified mail, shall result in cancellation of

the application or lease and forfeiture of all fees to the department.

D. Complaints in the field are to be handled in the following manner.

1. The applicant should allow the survey to be completed in all situations. The surveyor has his instructions.

2. If the applicant is dissatisfied with the survey after completed, he may register his complaint with the survey office within 14 days of date of survey.

3. Survey crew is to note that the applicant will complete the survey under protest at time survey is being performed.

4. If the applicant prevents survey from being completed in the field, his application will be cancelled. The applicant has 14 days from postdate on letter notifying him of said cancellation to come into the office and pay survey fee and have application reinstated.

E. Oyster Lease Posting Requirements. In an effort to comply with R.S. 56:430(B), and to keep within the constraints of Title 14, Section 63, dealing with criminal trespassing, the following are the posting oyster lease requirements.

1. The oyster lessee or person seeking to post the oyster lease shall place and maintain signs along the boundaries of the property or area to be posted. These signs shall be written in the English language.

2. The signs shall have letters of at least three inches in height and shall be of sufficient size and clarity to give notice to the public of the location and boundary of the oyster lease. The signs shall be placed and maintained at intervals of not more than one-fifth of a mile and shall be at least three to 12 feet above the water level.

3. At the main entrance to the property and at no less than all corners along the boundary of said property, the party seeking to post same shall include his name or initials in addition to the lease number.

4. In marsh areas and canals, posted signs shall also be placed at all major points of ingress and egress.

5. In open waters all signs are to be placed facing outward.

F. 1. Applications will remain in effect for a period of three years. At the end of three years any applications not surveyed by this department or a private surveyor will be cancelled.

2. Upon death of an applicant the estate will have 180 days to appoint a representative to deal with the survey of applications. If the department has not been notified within 180 days the application will be cancelled and survey fees will be retained.

3. No application for lease shall be transferrable.

4. An applicant will be required to outline on a department map the area for which he wishes to apply. Pursuant to R.S. 56:427(A), each element of the verbal description written on the application must be met by the survey plat. Additionally, the survey plat must conform completely to the map outline, attached to and made a part of the application; provided, however, that deviations from the map outline (but not the verbal written description) are permitted when such a deviation would not encroach on a neighboring lease or application, or when the signed, written consent of the leaseholder or applicant whose lease or application would be affected, has been granted. In no case will an applicant survey outside of his verbal written description, except as pro-

vided in 5.a.ii. below.

5. a. In the event of department error which results in an application being taken in an area where there is a prior undisclosed application or lease which prevents the applicant from taking the full amount of acreage applied for in the area described, the following procedure shall apply: the applicant shall have the option of:

i. taking all available remaining acres within the originally described area in a lease and receiving a pro rata refund of unused survey application fees for any loss of acreage; or

ii. taking all applied-for acres in one lease outside of the originally described area but in the nearest unencumbered water bottom; or

iii. if neither of the above options is acceptable to the applicant, the applicant may have his original application cancelled and receive a full refund of the survey application fee.

b. The applicant shall have 30 days from the date of notification of the conflict to exercise the above options.

c. If the applicant exercises the option as set out in Paragraph 5.a.ii above he shall be held to the amount of acres in his original application plus 10 percent.

d. In all such cases, the department shall have final approval of all relocations.

e. Before having the relocation area surveyed, it shall be necessary for the applicant to submit a new application for the area of relocation. This application shall be identified as a "relocation" application and shall indicate the old application by number for which it is being substituted and shall also be approved in writing by the undersecretary and the chief surveyor of the department.

f. All relocations shall follow this procedure. No survey shall proceed until the properly completed relocation application has been submitted, accepted and approved. No survey is authorized without the above procedure being followed nor shall the department be responsible for the cost of any survey performed prior to final approval of the relocated application.

6. No application for a new area will be accepted from any person not of the full age of majority (18 years).

H. Policy to comply with laws concerning default in payment of rent on oyster leases (Non-compliance R.S. 56:429)

1. On the first working day in February of each year, the Survey Section will compile a list of leases that are in default (R.S. 56:429). After compiling the list each owner will be notified by certified mail that his lease is in default and will be offered at public auction on the last Tuesday in March. He will also be notified that all works, improvements, betterments, and oysters on the leased area are the property of the state and that the Enforcement Division of the Louisiana Department of Wildlife and Fisheries has been so notified.

2. On the first working day following the last day of February all leases still in default will be advertised in a newspaper in the parish in which the lease is located. After the placement of the advertisement, advertisement cost will be added to the lease rent plus 10 percent. Up to and including the second Monday in March, the leases may be reinstated by payment of the rent due plus 10 percent and the advertising cost if applicable.

3. On the last Tuesday in March the auction will be held at a place to be designated by the Louisiana Depart-

ment of Wildlife and Fisheries. The auctioneer will be the chief surveyor or his designee. The opening bid for each lease will be the rent due plus 10 percent and advertising cost. All sales must be paid for in cash or by certified check. The auction will start with the lowest numbered lease and continue numerically until complete.

4. Any leases not sold at auction will be removed from the Survey Section maps. The area will be open and may be taken by application.

I. Procedures to Comply with R.S. 56:432.

1. The Survey Section will keep an indexing system to determine the acreage held by all oyster lease holders.

2. No application will be accepted that will cause an applicant to exceed a total of 1000 acres under lease and application. Reference R.S. 56:432.

3. No lease will be issued to an oyster lease holder that will cause his account to exceed 1000 acres underlease unless he qualified for additional acres by the ownership of oyster canning plants.

4. An oyster lease applicant will be given 30 days to reduce lease acreage prior to cancellation of any application that would cause his lease acreage to exceed 1000 acres. If the reduction is not made within 30 days the application will be cancelled and all fees retained by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and 56:422.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:470 (June 1984), amended LR 12:844 (December 1986), amended LR 15:197 (March 1989), LR 17: (August 1991).

James H. Jenkins, Jr.
Chairman

Notices of Intent

NOTICE OF INTENT

Department of State Civil Service Civil Service Commission

The Civil Service Commission will hold a public hearing on Wednesday, September 11, 1991, to consider amendments to Civil Service Rules 1.9.01, 11.26(e) and (f) and 13.35. The public hearing will begin at 8 a.m. in the Hearing Room located on the second floor, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

The following is a proposed amendment to be considered at the meeting:

PROPOSED RULE 1.9.01

1.9.01

Commuting Area - means that geographic area in which employees are subject to competition for a layoff. It shall encompass only the parish of the abolished position(s) and all bordering parishes, as determined by Civil Service.

EXPLANATION

This amendment is proposed because, for example, the present wording of the Rule would technically have Jefferson and St. Tammany Parishes bordering, even though Lake Pontchartrain separates them. In such rare bumping cases, this amendment would allow Civil Service, based on input from the appointing authority and affected employees, to determine if such parishes should border, for the greater good of the impacted employees.

PROPOSED RULE 11.26(e) AND (f)

11.26 Military Leave

(a) - (d) ...

(e) A probationary or permanent employee, who is a member of a reserve component of the Armed Forces of the United States and is involuntarily called to active duty prior to December 31, 1991 as a result of the August, 1990 Persian Gulf Crisis, and is released from satisfactory active military duty, upon furnishing appropriate official documents to his appointing authority and where the military base pay was less than the state base pay:

1. (a) If paid leave was utilized during the entire period of involuntary service, shall be credited with the value of annual and/or compensatory leave represented by the difference in military base pay and state base pay in the same proportion as that annual leave and/or compensatory time was utilized during the period of involuntarily service, and said credit shall be in the form of restoration of such leave; or

(b) If leave without pay was utilized for the entire period of involuntary service, shall be paid the difference between the military base pay and the state base pay; or

(c) If leave without pay was utilized for a portion of the period of involuntary service, shall be paid a portion of the difference in military base pay and state base pay that is the same as the portion that leave without pay is of the total of all leave taken. For the remaining portion of the pay difference, part (a) shall apply.

2. and shall be allowed 15 working days per calendar year of military leave with pay;

3. and shall continue to accrue sick and annual leave on the same basis as though he had not been activated and be credited such leave and all emoluments upon return from active duty as though he had not been activated;

4. and shall be retained in either leave with pay or leave without pay status for the duration of the involuntary active duty;

5. and shall not be subject to separation for the duration of the resulting active duty, provided he returns to employment within 90 days after his release from active duty;

6. and may repurchase in one payment only all or part of any annual leave utilized during the period of involuntary service within 24 months from return to active state service.

(f) A probationary or permanent employee, who was called to involuntary active duty as a result of the August, 1990 Persian Gulf Crisis, and resigned from state service, may, at his request, and within 90 days of his release from active duty, have his resignation rescinded and become eligible for the benefits of Subsection (e) of this rule.

EXPLANATION

This rule is proposed as a change to the emergency rule enacted on July 10, 1991 with formal adoption scheduled for September 11, 1991. The cash payment required to be given under that rule was to be collected back from the employee over 24 months thereby creating a significant administrative burden. Further, the rule required that all leave utilized had to be re-purchased. This proposed rule would require cash payment only to those on LWOP and those who elect to rescind a resignation, and for those who took paid leave only, a re-crediting of a certain portion of the leave would be made. This portion is the value in leave of the difference in military base pay and state base pay.

AMEND RULE 13.35

13.35 Attorneys' Fees

(a) When the commission or a referee approves a settlement, rescission, or modification of an action that has been appealed, or renders a decision, including a decision on application for review, which reverses or modifies an action that has been appealed, the appellee may be ordered to pay attorney's fees in amount not to exceed \$1,500.

(b) The commission or a referee may allow such evidence and argument in support of the request for attorney's fees as is deemed appropriate considering the status of the appeal at the time the request for attorney's fees is filed. No attorney's fees shall be awarded unless a written request is filed before the final disposition of the appeal by the commission or a referee.

(c) Repeal.

EXPLANATION

The proposed new rule is essentially the same as the old rule except for the increase in the amount of fees that may be awarded and except for the reference to the award of attorney fees on application for review.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the Director of Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Culture, Recreation and Tourism
Office of Cultural Development
Division of the Arts

The Division of the Arts advertises its intent to adopt substantive amendments to the following programs: Project Assistance, Arts in Education, Local Arts Agencies, Major Arts Institutions and Folklife Apprenticeship. Additionally, the Presenter Program and Arts Development Program are to be merged with Project Assistance Program. A new program, Arts Development-Technical Assistance will be created to assist emerging arts and cultural organizations. Other proposed changes include the rules governing the submission of applications and the evaluation criteria within each program area used to review applications.

Complete copies of the proposed rules may be obtained from the office of the State Register, 1051 Riverside

North, Baton Rouge LA and from the Division of the Arts. Interested persons may submit written comments on the proposed rule until 4:30 p.m. September 27, 1991 to the following address: Emma H. Burnett, Executive Director, Division of the Arts, Box 44247, Baton Rouge, LA 70804.

Emma H. Burnett
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Title 25, Part 1 Sections 301, 303, 305, 307

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana Division of the Arts anticipates no net implementation costs associated with the amending of Title 25, Sections 301, 303, 305, and 307. Each year the Division of the Arts publishes its complete "Guide to Arts Programs" for distribution to eligible organizations and individuals. The cost of preparing, printing and distributing this document is approximately \$3,000, and would be incurred with or without the proposed amendments. The amended rule would have no direct costs associated with it, as it changes application procedures and redirects grant monies among eligible organizations, rather than altering total funds to be granted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments will have no discernable effect on the revenue collection of the state or local governments. The Division of the Arts and the Louisiana State Arts Council award grant monies to organizations and individuals based on a yearly review of applications. All eligible organizations affected by the amendment are exempt from state and federal taxes under IRS 501(C)(3). Individuals receiving fellowship or apprenticeship awards are liable for state and federal income tax on awarded amounts, but the number and amount of these awards are not affected by this amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Maximum request ceilings for several program areas will be lowered under the amendment, although past funding history indicates that this would not have a direct, corresponding effect on awards to specific organizations. Requests for funding have traditionally been 200 to 500 percent higher than actual awards. Additional documentation will be required with some applications, making the application process more time consuming for some applicants, but with a corresponding reduction in processing time in the Division of the Arts. Applicants submitting manuscripts in the Music and Literature disciplines will be required to submit fewer copies, reducing copying and mailing charges.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment will have the effect of making applications from smaller major arts institutions more likely to be funded, as they would no longer compete with

larger organizations. While the net fiscal effect on individual applicant organizations is not possible to quantify, as it depends largely on the review of applications, the effect of the proposed amendments may reduce funds to established, repeat applicants in favor of applications from new or emerging organizations. This is consistent with Division and Louisiana State Arts Council policy regarding support for new and emerging organizations.

Emma H. Burnett
Executive Director

John R. Rombach
Legislative Fiscal Officer

Editor's Note: The following Notice of Intent, as appeared in the July 20, 1991 issue of the *Louisiana Register*, is being reprinted to correct typographical errors.

NOTICE OF INTENT

**Department of Economic Development
Board of Certified Public Accountants of Louisiana**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the board of Certified Public Accountants proposes to revise and amend LAC 46:XIX. Chapters 3-27.

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XIX. Certified Public Accountants**

Chapter 3. Operating Procedures

§305. Meetings

A. Any meeting may be called by the chairman or by joint call of at least two of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board. Regularly scheduled board meetings are usually held on the last working day of January, April, July and October.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), LR 9:207 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 5. Rules of Professional Conduct

§505. Responsibilities to Clients

A. ...

B. Records

A licensee shall furnish to his client or former client upon request:

1. - 3. ...

4. a copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records; and

5. a copy of computer generated books of original entry and general ledger.

C. The nonpayment of professional fees and/or out of pocket expenses shall not be a basis for failure to furnish the

records referred to in Subsection B.3, 4 and/or 5 above. A licensee shall be permitted to collect in advance of issuance a reasonable fee for time and expenses of issuing or reproducing a return and/or report referred to in Subsection B.1, 2 and 5 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 9:207 (April 1983), LR 10:278 (April 1984), LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§507. Other Responsibilities and Practices

- A. - F. ...
- G. Firm Name

The name under which a licensee practices public accounting must indicate clearly whether he is an individual practicing in his own name or a named member of a partnership or professional accounting corporation. If the name includes the designation "and Company" or "and Associates" or abbreviations thereof, there must be at least two licensees involved in the practice, who may be either partners or employees of the firm. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. Also, a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner or sole shareholder. No licensee shall allow a person who is not a licensee and who is not in partnership with him or in his employ on a salary, to practice in his name. If a firm is incorporated, words so indicating must appear in or with the firm name each time it is used.

- H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 9:207 (April 1983), LR 10:278 (April 1984), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 7. Requirements for Continuing Professional Education

§705. Programs Which Qualify

A. The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual licensed to practice as a certified public accountant.

Formal programs of learning are those programs that are designed, and primarily intended, as educational activities, and comply with all CPE standards. Magazines are not designed as educational programs nor do they comply with CPE standards. Accordingly, examinations on magazine articles will not qualify for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980), amended by the

Department of Economic Development, Board of Certified Public Accountants, LR 17:

§709. Credit Hours Granted

- A. - F. ...
- G. Special Limitations and Requirements
- 1. ...

2. All reporting periods shall include at least two hours of Professional Ethics that include a review of the State Board's Rules of Professional Conduct. (LAC Vol. 3, Title 46, Part XIX)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 17:

Chapter 13. Examination

§1301. General Requirements

- A.1. ...

2. Applications for the May examination must be received in the office of the board's agent no later than March 1. Applications for the November examination must be received in the office of the board's agent no later than September 1.

- 3. ...

- B. - C. ...

D. All examinations shall be in writing and must be completed in the time allotted by the board. The use of calculating equipment is prohibited unless provided by the board.

- E. - F. ...

G.1. Prior to the May 1994 examination Subparagraphs a, b and c shall read as follows:

a. If, and only if, a grade of 50 or more is made in each subject, a candidate who passes Practice or at least two other subjects at a single examination shall receive credit for the subject or subjects passed, conditioned upon his passing the remaining subject or subjects as set forth in Subparagraph b below.

b. A candidate who has received credit for passing part of the examination as set forth in Subparagraph a above shall be required to remove the condition in any of the next four consecutive examinations but shall receive no credit for passing a subject or subjects at any examination in which he makes a grade of less than 50 in any other subject.

c. Anyone who is a conditioned candidate as of the effective date of the Act shall have four consecutive examinations, beginning with and including the November 1979 examination, with which to comply with Subparagraph b above.

2. Beginning with the May 1994 examination and thereafter, the following rule shall apply:

a. If, and only if, a grade of 50 or more is made in each subject, a candidate who passes at least two subjects at a single examination shall receive credit for the subjects passed, conditioned upon his passing the remaining subject or subjects as set forth in Subparagraph b below.

b. A candidate who has received credit for passing part of the examination as set forth in Subparagraph a above shall be required to remove the condition in any of the next four consecutive examinations but shall receive no credit for passing a subject or subjects at any examination in which he makes a grade of less than 50 in any other subject.

c. Persons who have conditional credit obtained on

examinations given prior to May 1994 shall be given credit under the new examination format as follows: conditional credit in Theory of Accounts shall constitute conditional credit in Financial Accounting and Reporting - Business Enterprises; conditional credit in Accounting Practice shall constitute conditional credit in Accounting and Reporting - Taxation, Managerial, and Governmental and Not-for-Profit Organizations; conditional credit in Auditing shall constitute conditional credit in Auditing; and conditional credit in Business Law shall constitute conditional credit in Business Law and Professional Responsibilities.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 15. Certification

§1503. By Reciprocity

A. An applicant who has been certified as a public accountant by any state, as defined by R.S. 37:71F, shall be eligible for certification by the board, provided that:

1. ...

2. the applicant has successfully passed the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants and the scores achieved by the applicant thereon are certified to the board by the state which issued the applicant's original certification;

3. the original, initial certification need not be in good standing; however, it may not have been suspended for cause other than non-payment of fees;

4. at the time of the application and consideration thereof by the board, the applicant possesses current certification in good standing issued by any state which grants reciprocity certification to public accountants certified by the board.

B. An applicant otherwise eligible for reciprocity certification under Subsection A of this Section, save for possession of a baccalaureate degree, shall nonetheless be eligible for reciprocity certification by the board, provided that the applicant's original, initial certification as a public accountant by any state was issued on or before September 1, 1975, or the applicant has been in active, continuous practice as a certified public accountant for not less than four years during the ten years immediately preceding the date on which the applicant's application for reciprocity certification is received by the board.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77 and R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:7 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 17. Qualifications for Licensing

§1701. Eligibility for Licensing; Experience Requirements

A. To be eligible for initial licensing, other than upon

renewal pursuant to R.S. 37:82, a certified public accountant shall present proof, documented in a form satisfactory to the board, that he has obtained such professional accounting experiences as is prescribed by §1703 begun and completed within the six years immediately preceding the date of application for licensing.

B. To be eligible for reinstatement of licensure which has expired by virtue of nonrenewal, a certified public accountant shall present proof, documented in a form satisfactory to the board, that he has:

1.a. obtained such professional accounting experience as prescribed by §1703 begun and completed within the six years immediately preceding the date of application for licensing; and

b. present proof, documented in a form satisfactory to the board, that he has satisfied the requirements for continuing professional education for the preceding period as specified in §701.A. or,

2. if the experience obtained within the six years immediately preceding the date of application for licensing does not satisfy the requirements of §1703, he may obtain reinstatement of his license by completion of the following specific Continuing Education courses:

2 hours - Ethics, including the State Board Rules (LAC Vol. 3, Title 46, Part XIX)

118 hours - Accounting and Auditing, including financial reporting and disclosures.

C. Continuing education courses used to reinstate a license to practice, under Paragraph 2 or 3 above, may be used to satisfy the requirement of either the preceding reporting period or the current reporting period but may not be used to satisfy the requirements of more than one reporting period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75 and R.S. 37:77, and R.S. 37:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:234 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§1705. Equivalent Experience

A. 1. ...

2. Sufficient Quality and Depth

The experience must be of sufficient depth and quality meeting the following criteria:

a. A level of responsibility shall have been attained which requires the applicant to exercise professional judgment on significant financial accounting and reporting matters.

b. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75 and R.S. 37:77, and R.S. 37:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:223 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 19. Applications for CPA Examination, Certification, Licensing; Procedures

§1907. Rejection or Refusal of Application

The board may reject or refuse to consider any appli-

ation which is not complete in every detail, including submission of every document required by the application form and received in the board's office or for applications for the CPA examination, received in the office of the board's agent by the appropriate due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77 and R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:8 (January 1980), LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§1909. Unable to Sit for Examination

If, after filing his application, a candidate is unable to sit for the CPA examination, he must so notify the board not later than seven working days prior to the first day of the examination; otherwise, the fee shall be forfeited. A service charge will be assessed on all refunds of examination fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:8 (January 1980), LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§1911. Fees

Each application for examination, certification, or licensing shall be accompanied by a fee set by the board. In no event may the fee exceed \$200. Should such application be rejected, the fee shall be refunded. If a Louisiana candidate requests that he be allowed to sit in a state that requires a proctoring fee he shall be required to pay the proctoring fee in addition to the fee provided in Chapter 21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:77, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:8 (January 1980), LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 20. Temporary Permits

§2003. Scope of Authority

A. Subject to satisfaction of the qualifications and procedures prescribed by this Chapter, a temporary permit may be issued by the board to a person who or firm which is neither a resident of Louisiana nor licensed by the board, but who is certified and licensed as a certified public accountant by another state, to authorize the permittee's incidental, temporary practice of public accounting in Louisiana in connection with and limited to a single, specified engagement.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75(B)(13) and R.S. 37:77.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 15:618, (August 1989), amended LR 17:

Chapter 21. Fees and Service Charges for CPA Examination, Certification, Licensing

§2101. Assessment of Fees

A. Examination fees shall be assessed by the board in conformity with R.S. 37:80.E.

Service Charge for refund of examination fee under §1909. \$ 50

Original certification	\$ 50
Original license	\$ 50*
Replacement certificate	\$ 50**
Temporary permits	\$100
B. - C. ...	
D. Returned Check	

A fee not to exceed \$25 will be assessed against each person who pays any obligation to the board with a returned check. Failure to pay the assessed fee within the notified period of time shall cause the application to be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75, R.S. 37:77 and R.S. 37:80.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:757 (August 1985), LR 13:13 (January 1987) and LR 15:404 (May 1989), and LR 15:619 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 25. Renewals of Certification, Licensing

§2501. Annual Renewals, Reinstatement, Fees

A. Each certified public accountant shall renew his certificate and each licensee shall renew his license (such renewals hereinafter sometimes referred to as "register" or "registration") annually on or before the last day of December preceding the year for which renewal is applicable.

B. ...

C. Repeal

Renumber Subsections

D — C

E — D

F — E

G — F

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

§2503. Annual Notice of Form of Practice, Firm Registration

A. 1. Every licensed certified public accountant who is registered with the board and who is engaged either on a full- or part-time basis in the practice of his profession on his behalf shall file annually with the board a certification that he is practicing as an individual and that there are no partners or associates practicing with him.

2. Every certified public accountant who is licensed by the board and who is not practicing public accounting in his own name or who is not a partner or shareholder in a firm's registration must complete an Annual Notice of Form of Practice and CPA Firm Registration form.

B. ...

C.1. ...

2. In addition to the information to be filed as set forth above, each professional accounting corporation practicing public accounting in the state of Louisiana shall designate which shareholders have and which do not have voting privileges.

D. ...

E. An original letterhead must be attached to the

statement referred to in Subsection A and C above. Only licensed employees or licensed associates may be shown on stationery but such names shall be separated from that of the individual practitioner or those of the partners or voting shareholders by an appropriate line. Deceased or retired partners or shareholders shall be appropriately identified.

F. Repeal

Renumber Subsection G — F

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17: §2504. **Practice Monitoring Programs**

A. Positive Enforcement Program (PEP)

The board hereby establishes a positive enforcement program which will consist of the desk review of a compilation, review and audit report prepared during the preceding calendar year by practice units selected and approved by the board for audit. Upon notification of selection, the firm will submit one legible copy of a compilation, review and audit report issued by the Certified Public Accountant or firm of Certified Public Accountants within the preceding 12 months of the Annual Notice of Forms of Practice.

B. Governmental Positive Enforcement Program (GPEP)

The board hereby establishes the Governmental Positive Enforcement Program (GPEP). The program will consist of a desk review of selected audit reports filed by municipalities and other governmental entities which have filed audit reports prepared by a CPA or firm of CPAs and submitted to the legislative auditor in accordance with law.

C. Working Paper Review Program (WPRP)

The board hereby establishes the Working Paper Review Program (WPRP). The Working Paper Review Program shall consist of a review of working papers developed by individual or firm registrants in connection with the issuance of any audit, review or compilation report. Such review shall encompass all individual and firm registrants within each three year period.

D. Any firm which shall have been subjected to a professional Peer Review or Quality Review approved by and acceptable to the board and conducted pursuant to standards not less stringent than Peer Review and Quality Review standards applied by the American Institute of Certified Public Accountants shall be exempted from the provisions of Subsections A, B and C above provided that said firm shall have furnished a copy of a Peer Review report to the board should it have undergone a Peer Review or the American Institute of Certified Public Accountants, its designee or other approved providers shall have certified to the board the accountant's or firm's participation in a Quality Review program and the dates of the accountant's or firm's most recent quality review should the firm seek exemption on the basis of a Quality Review.

E. If a Certified Public Accountant or firm of Certified Public Accountants has not provided evidence pursuant to the terms of Subsection D above, then the board shall undertake a review of a compilation, review, audit, or governmental audit reports, or shall undertake a review of the working papers of any such Certified Public Accountant or firm prepared

in connection with the issuance of any audit, review or compilation report; further, any firm which shall have its working papers reviewed by the board pursuant to this Subsection E. shall be charged reasonable travel expenses and a per diem; provided that the aggregate amount of such reimbursable expenses shall not exceed the sum of \$1,000 as to any Certified Public Accountants or firm of Certified Public Accountants within any three year period. This limitation shall not apply to approved sponsoring organizations.

F. Each Certified Public Accountant or firm of Certified Public Accountants shall undergo a Peer Review, a Quality Review or a review of working papers or reports by the board at least once each three years.

G. No licensee or firm of Certified Public Accountants shall be required to become a member of any organization in order to comply with the provisions of §2504.

H.1. Oversight. The board shall appoint a Quality Review Oversight Board (QROB) whose function shall be the oversight and monitoring of sponsoring organizations for compliance and implementation of the minimum standards for performing and reporting on Quality Reviews. The QROB shall consist of three members, none of whom are current members of the State Board of Certified Public Accountants of Louisiana. These members shall:

- a. be currently licensed by the board and,
- b. be former state board members who are no longer in public practice, whenever possible.

2. Responsibilities. At least one member of the QROB will attend all meetings of the Society of Louisiana Certified Public Accountants Quality Review Committee, or any successor thereof.

3. Compensation. Compensation of QROB members shall be set by the board.

4. Duties of the QROB.

a. The QROB will observe the plenary sessions of the QRC which include the assignment of reviews to committee members and the summary meeting where the conclusions of the review committee members are discussed;

b. may periodically review files of the reviewers; and

c. may observe the deliberations of the QRC and report their observations to the board; and

d. make recommendations relative to the operation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 17:

Chapter 27. Renewals of Licensing - Reports on Continuing Professional Education

§2701. Submit with Application

Each licensee shall submit with his application for license renewal, on forms supplied by the board, a report of programs of continuing professional education completed during the applicable period and other information relative to fulfilling the continuing education requirements, except that such a report will not be required of a licensee who is included in a report in accordance with §2703. below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the

Department of Economic Development, Board of Certified Public Accountants, LR 17:

Interested parties may submit written comments on the proposed rules through 5 p.m. September 6, 1991 to Mildred M. McGaha, CPA, Executive Director, State Board of CPAs of LA, 2 Canal Street, Ste. 1515, New Orleans, LA 70130.

Mildred M. McGaha, CPA
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 46:XIX. Chapters 3 through 27**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rules amendments will result in any additional costs to the State Board of CPAs of Louisiana.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An increase in revenue collections of approximately \$8,430 to \$7,590 annually is anticipated from the implementation of Rule §2101.A. It is not anticipated that the other proposed rules amendments will have any effect on the board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

A. The amendment to Rule §2101.A will directly affect candidates withdrawing from the CPA examinations. The board believes the \$30 increase in the service charge will not be significant to these examination candidates.

B. It is not anticipated that implementation of the proposed rules amendments §1301.A.2, §1301.D, §1301.G, §1907 and §1909 will have a material effect on costs, paperwork or workload of persons applying to take the certified public accountants examination.

C. It is not anticipated that implementation of the proposed rules amendments §305, §505.B, §505.C, §507.G, §705.A, §709.G, §1701.B and C, §1705.A.2.a, §1911, §1915, §2003, §2101.D, §2503.A.1 and 2, §2303.C.2, §2503.E, §2504.A through H and §2701 will have a material effect on costs, paperwork or workload of persons holding licenses, permits and registrations issued by the board.

D. It is anticipated that implementation of the proposed rules amendments §1503, §2501, and §2503.F will provide a cost saving and a reduction in paperwork to directly affected licensees and CPA practice units regulated by this board; however, the effect will not be material.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules amendments will have any impact on competition or employment in either the public or private sector.

Mildred M. McGaha, CPA
Executive Director

John R. Rombach
Legislative Fiscal Officer

Editor's Note: The following Notice of Intent, as appeared in the July 20, 1991 issue of the *Louisiana Register*, is being reprinted to correct typographical errors.

NOTICE OF INTENT

**Department of Economic Development
Board of Certified Public Accountants of Louisiana**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Certified Public Accountants gives notice of its intent to promulgate rules and regulations implementing amendment to LAC 46:XIX.1303.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XIX. Certified Public Accountants**

Chapter 13. Examinations

§1303. Educational Requirements

A. To be eligible for examination and certification by and under auspices of the board, after December 31, 1996, an applicant shall possess a baccalaureate degree, duly conferred by a university or college recognized and approved by the board, and in addition shall have, in the course of attaining such degree, or in addition thereto, received credit for not less than 150 hours of post-secondary, graduate or postgraduate education at and by an accredited college or university approved by the board. The applicant shall present evidence which shall consist of one or more official transcripts certifying that the applicant has attained the foregoing degree and educational hours, and in addition said transcripts shall evidence award of credit for satisfactory completion of the following courses and credit hours, according to whether such courses and credits are taken as an undergraduate course and semester hour or a graduate course and semester hour.

	Undergraduate Semester Hours	Graduate Semester Hours
Accounting courses:	24	21
Intermediate	6	3
Cost	3	3
Income tax	3	3
Auditing	3	3
Accounting electives:	9	9

3 semester hours from one of the following:

- Advanced financial accounting
- Not-for-profit accounting/auditing
- Theory

6 semester hours in accounting above the basic and beyond the elementary level
Business courses:

(other than accounting courses): 24 24

Including at least 3 semester hours in Commercial Law* (as it affects accountancy)

* 1. A course described as "Legal Environment of Business" emphasizing consumer protection and the regulatory environment, is not recognized as equivalent to, nor does it satisfy, the specified Commercial Law requirement at

either the undergraduate or graduate level.

2. Up to six semester hours for internship may be applied to the 150 hours requirement, but may not be used to meet the accounting or business courses requirement.

3. Standard conversion (4 quarter hours equals 3 semester hours) will be applied whenever a school is not on the semester basis.

B. No applicant who has taken the examination administered by the board prior to December 31, 1996 shall be required to meet the requirement of having received credit for not less than 150 hours, as well as a baccalaureate degree and any such applicant who has taken the examination prior to such date shall thereafter remain eligible to take any examination administered by the board prior to December 31, 1999, and shall thereafter be eligible, subject to applicable rules and regulations of the board, to take components of the examination in order to pass all portions of the examination. Candidates whose conditional credits expire after December 31, 1999, shall be required to show completion of 150 semester hours before reapplying to take any other CPA examination in Louisiana.

C. To be eligible for examination and certification by and under the auspices of the board, prior to December 31, 1996, an applicant shall possess a baccalaureate degree, duly conferred by a university or college recognized and approved by the board, with concentration in the area of accounting, at either the graduate or undergraduate level, evidenced by award of credit for satisfactory completion of the following courses and credit hours, according to whether such courses and credits are taken and awarded as an undergraduate course and semester hours or a graduate course and semester hours:

	Undergraduate Semester Hours	Graduate Semester Hours
Elementary accounting	3	-
Intermediate accounting	6	3
Advanced accounting	3	3
Cost accounting	3	3
Income tax accounting	3	3
Auditing	3	3
Accounting elective	3	3
Commercial Law (as it affects accountancy)*	3	3

* 1. A course described as "Legal Environment of Business," emphasizing consumer protection and the regulatory environment, is not recognized as equivalent to, nor does it satisfy, the specified Commercial Law or Accounting Elective requirement at either the undergraduate or graduate level.

2. Standard conversion (4 quarter hours equals 3 semester hours) will be applicable whenever a school is not on the semester basis.

D. In the event that the applicant's degree does not reflect the credit hours in the courses prescribed by Subsections A or C of this Section, the board may, on good cause shown by the applicant, allow the substitution of other courses that, in the board's judgment, are substantially equivalent to any of such prescribed courses or to the credit hours prescribed therefor. Documentation of good cause for any such requested substitution shall be submitted by the applicant to the board upon affidavit sworn to and subscribed

by the applicant and an officer of the university, college or other educational institution where the course to be substituted was taken. Such affidavit shall set forth a course description of the course sought to be substituted and a comparison of the content of such course to that of the course for which substitution is requested.

E. If the applicant's degree does not reflect the credit hours in the courses prescribed by Subsections A and C of this Section, an applicant may become eligible for examination and certification by and under the auspices of the board by having otherwise taken and completed the courses required by this rule and receive credit for satisfactory completion thereof awarded by an accredited university, college, vocational or extension school recognized and approved by the board.

F. Other than for correspondence courses at an accredited university, with respect to the course requirements specified by Subsections A and C of this Section, the board does not recognize credit received for courses granted on the basis of advanced placement examination (such as CLEP, ACT or similar examinations). To be recognized by the board the course credits specified by Subsections A and C of this Section shall have been awarded pursuant to satisfactory completion of a course requiring personal attendance at classes in such courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987) amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:616 (August 1989), LR 17:

Interested parties may submit written comments on the proposed rules through 5 p.m. September 6, 1991 to Mildred M. McGaha, CPA, Executive Director, State Board of Certified Public Accountants of LA, 2 Canal Street, Suite 1515, New Orleans, LA 70130.

Mildred M. McGaha, CPA
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 46:XIX**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rules amendments will result in any additional costs to the Board of Certified Public Accountants.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no material effects on the revenue collections of state or local governmental units from implementation of these rules amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There can be the increased cost to students of from 15 semester hours to 27 semester hours of additional educational courses. This can vary because some pro-

spective candidates are in higher degree programs. Other candidates may have more than one baccalaureate degree, thereby possibly meeting part of the 150 hour requirement.

Because candidates with 150 hours or more of education are much more likely to pass the CPA examination, they save time and expense of multiple sittings. Many may also save the costs of a CPA review course.

The effects on future earnings and employment in educating individuals are certain, but difficult to precisely quantify. Several studies related to on-the-job performance and educational backgrounds have found that accountants with advanced degrees have significantly higher annual evaluations and are promoted faster than those without advanced studies. A New Mexico study found the benefits accruing in additional expected income exceeded the additional education costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact of these proposed amendments on competition and employment are unknown.

Mildred M. McGaha, CPA
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Board of Interior Designers**

In accordance with R.S. 37:3171 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Examiners of Interior Designers advertises its intent to amend LAC 46:XLIII. Chapters 1 - 13 pertaining to the operation and governing of the board and the examination and licensing of interior designers in the state of Louisiana.

Copies of these proposed rules may be obtained from the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70804 and from the Board of Examiners of Interior Designers, 8017 Jefferson Highway, Suite B-3, Baton Rouge, LA 70809, (504) 925-3921.

Inquiries and comments regarding these amendments should be addressed to J. Daniel Bouligny, Chairman, at the Board of Examiners of Interior Designers at the above address. Comments will be accepted through the close of business on September 27, 1991 at 4:30 p.m.

J. Daniel Bouligny
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Examination and Licensing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a savings of \$300 per exam, because the board will no longer buy the exams. The applicants will buy them directly from the testing agency. Based on ten applicants twice a year, the board will save \$6,000 per

year. Costs - it will be necessary to hold administrative hearings at an estimated cost of \$500 per hearing. Based on two hearings per year, the cost will be \$1,000. There will be a net saving of \$5,000 per year based only on these costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A fee of \$75 has been established for the restoration of an expired license or the reactivation of an expired license. The board may require a fine of \$100 for the restoration of a revoked or suspended license. The impact of the fee increase to the total revenue collections of the board cannot be determined.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be increased costs to licensees due to implementation of continuing education requirements. The cost is estimated at \$75 per person.

To restore an expired license or reactivate an expired license will cost \$75. A fine of \$100 may be required by the board to restore a revoked or suspended license. Applicants for the NCIDQ examination will have an increased cost of \$300 which will cover the cost of the exam. A licensing fee of \$150 will still be collected by the board.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little effect on competition and employment because this statute and regulations only affect what the licensee can call his occupation. The licensee will not lose the right to practice his profession if he is not licensed.

Some will be affected by the requirement that they participate in continuing education. This should enhance the industry and the individual practice.

Anna E. Dow
Attorney for Board

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Notice is hereby given that the Real Estate Commission intends to adopt revisions to the existing rules and regulations of the agency, the text of which appears in its entirety in the Emergency Rule section of this August, 1991 issue of the *Louisiana Register*, specifically LAC 46:LXVII, Subpart 1, Chapter 27, Escrow and Trust Account.

Interested parties may direct inquiries and present their views in writing to the subcommittee through September 20, 1991. Contact Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Jane H. Moody
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Escrow and Rental Trust Accounts**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated costs (savings) to the agency through adoption of these amendments. Amendments serve to further define procedure for opening and maintaining accounts.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections through adoption of these amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Licensed real estate brokers who do not accept deposits on behalf of a client in connection with the sale of real estate, i.e., brokers who engage solely in property management, will no longer be required to maintain a sales escrow account or the associated banking costs. Non-resident brokers are allowed to maintain accounts in their resident state and are not required to bank in Louisiana.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Jane H. Moody
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletin 741 Relative to the Administrative Leadership Academy

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 an amendment to Bulletin 741, Louisiana School Administrators' Handbook relative to the Administrative Leadership Academy to add the following paragraph and procedural block under Standard 1.020.00:

Administrators employed by the school system shall comply with all regulations of the Administrative Leadership Academy.

Refer to R.S. 17:3761-3764 and Bulletin 1882.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., October 8, 1991 at the following address: State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Administrative Leadership Academy Guidelines/Bulletin 1882**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be minimal printing costs in adding four lines of print to Bulletin 741.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no additional costs or economic benefits to the administrators affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Graig A. Luscombe
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Salary Schedule for State Technical Institutes - Evening Extension

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 an amendment to the Salary Schedule for State Technical Institutes to allow the directors the flexibility to pay a minimum of \$15 per hour up to a maximum of \$20 per hour for evening extension instructional personnel, effective July 1, 1991.

This amendment to Bulletin 1868, BESE Personnel Manual supersedes the amendment which was adopted as a rule, June, 1991. This amendment to the Salary Schedule for State Technical Institutes - Evening Extension, was adopted as an emergency rule and printed in the July, 1991 issue of the *Louisiana Register*.

Interested persons may comment on the proposed policy changes and/or additions in writing until 4:30 p.m., October 8, 1991 at the following address: 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: Amendment to Salary Schedule for Evening Extension**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This is revising the Board of Elementary and Secondary Education Bulletin 1868, Chapter D, Section 145 policy on the extension rate of pay to extension instructors in the Postsecondary Technical Institute System. The new policy will give the director of the institute the flexibility to pay a minimum of \$15 per hour up to \$20 per hour for an instructor to teach in the extension program. The savings to the state for this charge would be up to \$157,450 if we maintained the same number of extension courses we had in the past year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

As of June 30, 1991, the salary rate for extension instructors was \$15 per hour. July 1, 1991, the salary rate for extension instructors went up to \$20 per hour. This change would give the institute's director the flexibility to pay from \$15 per hour up to \$20 per hour to obtain a qualified instructor for an extension course.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Single Disbursement Rule PLUS Loans
to Parental Borrowers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated from implementation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on state or local governmental unit revenue collections is anticipated from implementation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Single disbursement of PLUS Loans to parental borrowers will reduce administrative expense for lenders and servicers who provide these funds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change will result in the Office of Student Financial Assistance being as flexible in disbursement of PLUS funds as other guarantee agencies and increase our competitiveness with those other agencies.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Single Disbursement for PLUS Proceeds

The Student Financial Assistance Commission advertises its intention to establish a rule requiring single disbursement of all PLUS proceeds. This action would rescind the portion of item 2 in LPM 89-105 effective January 1, 1990 which calls for multiple disbursement for every PLUS loan guaranteed by this agency. The requirement for multiple disbursement of Stafford and SLS Loans remains unchanged.

The Loan Program Policy and Procedure Manual Chapter VII, Section J would be amended to add paragraph 3, which will read as follows:

A lender will disburse PLUS proceeds in a single disbursement.

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., October 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

NOTICE OF INTENT

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

TAP Summer Attendance Exceptions

The Student Financial Assistance Commission advertises its intention to exempt certain Tuition Assistance Plan (TAP) recipients from the requirement that funding for all scholarship/grant programs be limited to the fall, winter and spring school terms. Chapter VII, B1 of the Scholarship/Grant Policy and Procedure Manual will be revised to read:

Funding for all scholarship/grant programs is limited to the fall, winter and spring school terms. Exceptions will be considered for an institution's educational programs that require Tuition Assistance Plan (TAP) recipients to attend summer sessions to complete the program's mandatory classes when such classes are not offered during regular terms.

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., October 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Tuition Assistance Plan (TAP)
Summer Attendance Exceptions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated cost of permitting certain exceptions for Tuition Assistance Plan (TAP) recipients to attend summer sessions during the summer 1991 session is \$1,147. Three current TAP recipients would benefit from this provision, at a cost of \$382 per student. We anticipate the number of individuals with this summer attendance requirement will continue at the same level.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on state or local governmental unit revenue collections is anticipated from implementation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

A Tuition Assistance Plan (TAP) recipient must meet strict income criteria and therefore would have little financial means to pay for required summer term attendance of courses not offered during regular terms but mandated as part of that student's curriculum. Award of tuition

funds for such courses would assist these students in meeting expenses of education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition or employment is anticipated from this rule.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

(Editor's Note: Appendices 3 and 4 of the following Notice of Intent, published in the *Louisiana Register*, July 1991, pps. 711-727, are being republished, as they were not printed in their entirety.)

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Community Development Section**

**Louisiana Community Development Block Grant (LCDBG)
Program
FY 1992 Final Statement

APPENDIX 3

**1991 Median Family Income
By Parish and MSA**

<u>Parish</u>	<u>1991 Median Family Income</u>	<u>Low/Mod Income* Limit</u>	<u>Low Income* Limit</u>
Acadia	\$ 23,200	\$ 20,650	\$ 12,900
Allen	26,900	20,650	12,900
Ascension	See MSA - Baton Rouge		
Assumption	28,000	22,400	13,600
Avoyelles	19,500	20,650	12,900
Beauregard	29,900	21,900	12,900
Bienville	25,200	20,650	12,900
Bossier	See MSA - Shreveport		
Caddo	See MSA - Shreveport		
Calcasieu	See MSA - Lake Charles		
Caldwell	22,900	20,650	12,900
Cameron	35,300	25,900	13,900
Catahoula	20,800	20,650	12,900
Claiborne	26,500	21,200	13,250
Concordia	24,700	20,650	12,900
Desoto	27,100	21,700	13,550
East Baton Rouge	See MSA - Baton Rouge		
East Carroll	18,800	20,650	12,900
East Feliciana	33,800	25,300	12,900
Evangeline	21,300	20,650	12,900
Franklin	21,600	20,650	12,900
Grant	22,400	20,650	12,900
Iberia	30,200	24,150	15,100

(Continued)

<u>Parish</u>	<u>1991 Median Family Income</u>	<u>Low/Mod Income*</u> <u>Limit</u>	<u>Low Income*</u> <u>Limit</u>
Iberville	36,200	27,050	12,900
Jackson	25,200	20,650	12,900
Jefferson	See MSA - New Orleans		
Jefferson Davis	30,300	22,250	12,900
Lafayette	See Msa - Lafayette		
Lafourche	See MSA - Houma-Thibodaux		
LaSalle	24,800	20,650	12,900
Lincoln	30,400	24,300	15,200
Livingston	See MSA - Baton Rouge		
Madison	19,300	20,650	12,900
Morehouse	23,500	20,650	12,900
Natchitoches	24,300	20,650	12,900
Ouachita	See MSA - Monroe		
Plaquemines	34,300	27,450	17,150
Pointe Coupee	31,100	23,300	12,900
Rapides	See MSA - Alexandria		
Red River	22,800	20,650	12,900
Richland	21,900	20,650	12,900
Sabine	\$ 24,600	\$ 20,650	\$ 12,900
St. Bernard	See MSA - New Orleans		
St. Charles	See MSA - New Orleans		
St. Helena	23,700	20,650	12,900
St. James	34,000	27,200	15,600
St. John the Baptist	See MSA - New Orleans		
St. Landry	23,600	20,650	12,900
St. Martin	See MSA - Lafayette		
St. Mary	32,400	25,900	16,200
St. Tammany	See MSA - New Orleans		
Tangipahoa	25,100	20,650	12,900
Tensas	18,900	20,650	12,900
Terrebonne	See MSA Houma - Thibodaux		
Union	25,400	20,650	12,900
Vermilion	24,900	20,650	12,900
Vernon	20,000	20,650	12,900
Washington	23,900	20,650	12,900
Webster	25,900	20,700	12,950
West Baton Rouge	See MSA - Baton Rouge		
West Carroll	19,600	20,650	12,900
West Feliciana	29,800	22,300	12,900
Winn	20,300	20,650	12,900

*For those parishes which have a median family income less than the State nonmetropolitan median family income (\$25,800), the low/mod income and the low income limits were based on the State nonmetropolitan median family income.

MSA-Metropolitan
Statistical Areas

MSA Alexandria, LA ¹	28,700	22,950	14,350
MSA Baton Rouge, LA ²	35,700	28,550	17,850
MSA Houma-Thibodaux, LA ³	32,700	26,150	16,350
MSA Lafayette, LA ⁴	35,000	28,000	17,500
MSA Lake Charles, LA ⁵	35,700	28,550	17,850
MSA Monroe, LA ⁶	28,900	23,100	14,450
MSA New Orleans, LA ⁷	35,100	28,100	17,550
MSA Shreveport, LA ⁸	34,400	27,500	17,200

Footnotes:

- 1 Includes Rapides Parish only.
- 2 Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.
- 3 Includes Terrebonne and Lafourche Parishes.
- 4 Includes St. Martin and Lafayette Parishes.
- 5 Includes Calcasieu Parish only.
- 6 Includes Ouachita Parish only.
- 7 Includes Jefferson, Orleans, St. Tammany, St. Bernard, St. John the Baptist, and St. Charles Parishes.
- 8 Includes Caddo and Bossier Parishes.

Source: Income data provided by U. S. Department of Housing and Urban Development, February 1, 1991.

APPENDIX 4

1980 Median Family Income
By Parish and MSA

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	Unrelated Individuals
Acadia	\$ 15,792	\$12,634	\$ 8,844	\$ 7,896	\$ 5,527
Allen	15,685	12,548	8,784	7,842	5,489
Ascension	21,572	17,258	12,080	10,786	7,550
Assumption	17,334	13,867	9,707	8,667	6,067
Avoyelles	11,987	9,590	6,713	5,994	4,196
Beauregard	17,417	13,934	9,754	8,709	6,096
Bienville	13,850	11,080	7,756	6,925	4,848
Bossier	See MSA - Shreveport				
Caddo	See MSA - Shreveport				
Calcasieu	See MSA - Lake Charles				
Caldwell	12,624	10,099	7,069	6,312	4,418
Cameron	20,562	16,450	11,515	10,281	7,197
Catahoula	12,770	10,216	7,151	6,385	4,470
Claiborne	14,538	11,630	8,141	7,269	5,088
Concordia	15,208	12,166	8,516	7,604	5,323
DeSoto	14,887	11,910	8,337	7,444	5,211
East Baton Rouge	See MSA-Baton Rouge				
East Carroll	10,388	8,310	5,817	5,194	3,636
East Feliciana	16,184	12,947	9,063	8,092	5,664
Evangeline	12,540	10,032	7,022	6,270	4,389
Franklin	11,937	9,550	6,685	5,969	4,178
Grant	See MSA-Alexandria				
Iberia	19,268	15,414	10,790	9,634	6,744
Iberville	17,340	13,872	9,710	8,670	6,069
Jackson	13,919	11,135	7,795	6,960	4,872

(Continued)

Parish	1980 Median Family Income	LOW/MOD INCOME LIMIT		LOW INCOME LIMIT	
		Families	Unrelated Individuals	Families	Unrelated Individuals
Jefferson	See MSA - New Orleans				
Jefferson Davis	17,657	14,126	9,888	8,829	6,180
Lafayette	See MSA - Lafayette				
Lafourche	19,947	15,958	11,170	9,974	6,982
LaSalle	15,250	12,200	8,540	7,625	5,338
Lincoln	16,660	13,328	9,330	8,330	5,831
Livingston	See MSA - Baton Rouge				
Madison	10,679	8,543	5,980	5,340	3,738
Morehouse	12,949	10,359	7,251	6,475	4,533
Natchitoches	13,343	10,674	7,472	6,672	4,670
Orleans	See MSA - New Orleans				
Ouachita	See MSA - Monroe				
Plaquemines	19,884	15,907	11,135	9,942	6,959
Pointe Coupee	14,913	11,930	8,351	7,457	5,220
Rapides	See MSA - Alexandria				
Red River	12,482	9,986	6,990	6,241	4,369
Richland	12,112	9,690	6,783	6,056	4,239
Sabine	13,519	10,815	7,571	6,760	4,732
St. Bernard	See MSA - New Orleans				
St. Charles	\$23,223	\$18,578	\$13,005	\$11,612	\$8,128
St. Helena	11,370	9,096	6,367	5,685	3,980
St. James	21,044	16,835	11,785	10,522	7,365
St. John the Baptist	21,818	17,454	12,218	10,909	7,636
St. Landry	13,893	11,114	7,780	6,947	4,863
St. Martin	16,612	13,290	9,303	8,306	5,814
St. Mary	20,688	16,550	11,585	10,344	7,241
St. Tammany	See MSA - New Orleans				
Tangipahoa	14,315	11,452	8,016	7,158	5,011
Tensas	10,447	8,358	5,850	5,224	3,657
Terrebonne	20,918	16,734	11,714	10,459	7,321
Union	14,027	11,222	7,855	7,014	4,910
Vermilion	16,951	13,561	9,493	8,476	5,933
Vernon	12,951	10,361	7,253	6,476	4,533
Washington	13,641	10,913	7,639	6,821	4,775
Webster	See MSA - Shreveport				
West Baton Rouge	See MSA - Baton Rouge				
West Carroll	10,807	8,646	6,052	5,404	3,783
West Feliciana	14,289	11,431	8,002	7,145	5,002
Winn	12,445	9,956	6,969	6,223	4,356
<u>MSA-Metropolitan Statistical Areas</u>					
Alexandria, LA ¹	\$15,741	\$12,593	\$8,815	\$7,871	\$5,510
Baton Rouge, LA ²	21,301	17,041	11,929	10,651	7,456
Lafayette, LA ³	21,472	17,178	12,024	10,736	7,515
Lake Charles, LA ⁴	21,316	17,053	11,937	10,658	7,461
Monroe, LA ⁵	17,140	13,712	9,598	8,570	5,999
New Orleans, LA ⁶	19,196	15,357	10,750	9,598	6,719
Shreveport, LA ⁷	18,158	14,526	10,168	9,079	6,355

Footnotes:

¹Includes Rapides and Grant Parishes.

- ²Includes East Baton Rouge, West Baton Rouge, Livingston, and Ascension Parishes.
- ³Includes Lafayette Parish only.
- ⁴Includes Calcasieu Parish only.
- ⁵Includes Ouachita Parish only.
- ⁶Includes Jefferson, Orleans, St. Bernard, and St. Tammany Parishes.
- ⁷Includes Bossier, Caddo, and Webster Parishes.

Source: 1980 Census and Formula provided by U. S. Department of Housing and Urban Development.

Dennis Stine
Commissioner

* * *

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

The Department of Health and Hospitals, Board of Embalmers and Funeral Directors, in accordance with R.S. 37:840 gives notice that rulemaking procedures have been instituted to amend LAC46:XXXVII.111 to read as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 1. General Provisions

§111. Mandatory Disclosure

A. Every funeral firm in this state and/or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements, either at need or pre-need, or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service and/or providing the merchandise, a written statement showing to the extent then known:

- 1. the price of the service that the person or persons have selected and what is included therein;
- 2. the price of each of the supplemental items of service and/or merchandise required;
- 3. the amount involved for each of the items for which the firm will advance monies as an accommodation of the family;
- 4. the method of payment.

B. No funeral firm shall bill or cause to be billed any item that is referred to as a "cash advance" item unless the net amount paid for such item or items by the funeral firm is the same as is billed by the funeral firm.

C. Every funeral firm in this state or funeral service licensee thereof shall have available in their display room and inside the casket within view of the general public, the price of that particular casket and/or services included therein.

D. Should a funeral home be designated in a pre-need

funeral arrangement contract and designated further as a beneficiary of funds from any source which are to be used to fund the proposed funeral service, and should a funeral service not be provided, then the said funeral home shall refund the entire amount of the funds received, including principal and interest, to the estate of the deceased, unless directed otherwise within the pre-need funeral arrangement contract.

E. Unless otherwise specified, a prepaid, pre-need funeral arrangement contract provides a time of death guarantee unless previously canceled or revoked under the terms of the agreement.

F. If for any reason the casket and/or merchandise selected at the time of the prepaid, pre-need arrangement contract is not available at the time of death, then the funeral home must offer a similar casket and/or merchandise that is equal to or greater than the at-need cost of the casket and/or merchandise selected at pre-need.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended, LR 17:

Oral or written comments may be directed to Lloyd E. Eagan, Secretary, Board of Embalmers and Funeral Directors, Suite 1232, The Executive Towers, 3500 N. Causeway Boulevard, New Orleans, LA 70002, (504) 838-5109 through the close of business at 4 p.m., August 20, 1991.

Lloyd E. Eagan
Secretary

Fiscal and Economic Impact Statement

For Administrative Rules

Rule Title: LAC 46:XXXVII.111 - Mandatory Disclosure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Lloyd E. Eagan
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing, proposes to adopt the following rule in the Medical Assistance Program.

Currently, computer-matched data is considered verified information and action to terminate Medicaid, if appropriate, is taken based on such data. A 10-day notice for appeal is allowed for the non-SSI recipient. SSI recipients are currently terminated effective the month of receipt of an SSI closure if received by the 10th of the month and effective the following month if received after the 10th of the month.

Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988, is mandated to improve the oversight and procedures governing the disclosure of personal information used in computer matching programs when a federal agency is a party to the match. The law covers matches received by the state through the SDX, BENDEX, TPQY, IRS, INS, IEVS, and SA systems.

In order to continue receiving SDX tapes from the Social Security Administration which enable the state to make Medicaid determinations on SSI recipients, it is required that each state sign an agreement containing specific elements such as procedures for notification of the affected individuals. The Department of Social Services, Office of Eligibility Determinations as the responsible component for the disclosure signed such an agreement on May 24, 1989.

Under the provisions of the law, prior to making a final denial of any assistance or taking other adverse action against an individual as a result of information produced by a federal computer matching program, the individual must be given a notice of the agency's findings and informed of the opportunity to contest such findings. The notice period is currently established as a minimum of 30 days in accordance with previous emergency rulemaking under provisions of R.S. 49:953(B) effective February 28, 1990 and published in the *Louisiana Register*, Volume 16, Number 3 on March 20, 1990 with a subsequent notice of intent published on April

20, 1990 and the final rule published on June 20, 1990. Under this rule the bureau adopted the provisions of P.L. 100-503 and ensured compliance with mandated federal laws and regulations to avoid sanctions from the Health Care Financing Administration.

Public Law 100-508, the Omnibus Budget Reconciliation Act of 1990, amended the Computer Matching and Privacy Protection Act of 1988 by changing the due process requirements. The Data Integrity Board of the U.S. Department of Health and Human Services subsequently issued a Certification of Board Action authorizing agencies to substitute existing program statutory and regulatory notification periods for the 30-day period originally required under the Computer Matching and Privacy Protection Act.

PROPOSED RULE

For those individuals subject to federal computer matching programs the notice period for the provision of the agency's findings and the opportunity to contest such findings shall be 10 days.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on September 27, 1991 in the Department of Transportation and Development Auditorium, Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

David L. Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Computer Matching Privacy Act of 1988 as
amended by OBRA 1990**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs associated with this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits associated with this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition and employment.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

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.

Reimbursement is available under Title XIX for inpatient psychiatric hospital services for Medicaid-eligible recipients age 65 or over. Currently, the reimbursement policy for this service provides that the recipient's temporary absence from a psychiatric facility does not interrupt the vendor payment to the facility provided the temporary absence is the result of hospitalization in a general hospital, trial discharge or therapeutic home leave visits.

The bureau proposes to amend the reimbursement policy in relation to Medicaid recipients age 65 or over in a psychiatric hospital due to a clarification from the Health Care Financing Administration. State Medicaid Manual Transmittal No. 51 (November 1990) clarifies that an individual age 65 or over on conditional release or convalescent leave from a psychiatric hospital is not considered to be a patient in that institution. These periods of absence relate to the course of treatment of the individual's mental disorder. If a patient is sent home for a trial visit, this is considered as convalescent leave. If a patient is released from the institution on the condition that the patient receive outpatient treatment or on other comparable conditions, the patient is on conditional release. If a patient age 65 or older is temporarily released from the psychiatric hospital for the purpose of obtaining medical treatment, however, this is not considered a conditional release and the patient is still considered a patient in the psychiatric hospital and is eligible for payment in accordance with the policy for "hospital leave days."

The revised policy affects only individuals age 65 or older who receive inpatient psychiatric hospital services and is not applicable to individuals under 21 years of age receiving such services.

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

PROPOSED RULE

When a Medicaid recipient age 65 or older is temporarily absent from an inpatient psychiatric hospital, vendor payments will be made only in accordance with federal regulations and guidelines.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Friday, September 27, 1991 in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Reimbursement for Inpatient Hospital Services-Age 65 and Over

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost will be \$100 for manual revisions of which \$50 is the projected cost to the state for SFY 91-92. There is no expenditure increase or decrease projected for program services in FY 92-93 and FY 93-94.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule increases federal matching funds for Title XIX administrative expenditures by \$50 for issuance of manual policy for providers of inpatient psychiatric hospital services in the Title XIX program. There is no projected impact on revenues for FY 91-92 and FY 92-93.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no projected impact on other groups resulting from this rule in FY 91-92, FY 92-93, and FY 93-94.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

Carolyn O. Maggio
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Fire Marshal

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1651 et seq., notice is hereby given that the Office of the State Fire Marshal intends to adopt the following rules relative to the adoption of minimum Life Safety Standards for plans and specifications of new construction.

Title 55 PUBLIC SAFETY

Part V. Administrative Rules on Fire Protection

Chapter 1. Preliminary Provisions

§103. General Provisions

* * *

G. With regards to buildings constructed or remodeled between February 19, 1989 and May 31, 1992 or whose construction was timely completed pursuant to plans submitted to the Office of State Fire Marshal prior to May 31, 1992, inspections will be made utilizing the new construction requirements set forth in the 1988 edition of the Life Safety Code of the National Fire Protection Association and §506 - Special Provisions for High-Rise Buildings of the Standard Building Code of the 1985 edition of the Southern Building Code Congress International, Inc.

F. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1992 will be made utilizing new construction requirements set forth in the 1991 edition of the Life Safety Code of the National Fire Protection Association and § 506 - Special Provisions for High-Rise Buildings of the Standard Building Code of the 1988 edition of the Southern Building Code Congress International, Inc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1983), LR 15:96 (February 1989), LR 17:

Chapter 3. Buildings

§303. Plans and Specifications for New Buildings

A. The plans and specifications for all buildings constructed after June 1, 1992, all existing buildings which were remodeled or renovated after June 1, 1992 and all structures in which a change of occupancy classification occurs after June 1, 1992, shall be prepared in accordance with the minimum requirements for new construction contained in the 1991 edition of the Life Safety Code of the National Fire Protection Association (NFPA 101) and § 506 - Special Protection for High-Rise Buildings, of the 1988 edition of the Standard Building Code published by the Southern Building Code Congress International, Inc.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July 1981), LR 7:588 (November 1981), LR 9:417 (June 1983), and LR 12:116 (February 1986), LR 15:96 (February 1989), LR 17:

Interested persons may submit written comments on the proposed amendments until November 1, 1991 to Jerry Jones, Chief Architect, Office of State Fire Marshal, 5150 Florida Blvd., Baton Rouge, LA 70806.

V.J. Bella
State Fire Marshal

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Adoption of 1991 Edition of Life Safety Code and Section 506 of the 1991 Edition of the Standard Building Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This office estimates an implemental cost to the state of approximately \$1,650 to cover the cost of purchasing the necessary code books. This office estimates an implemental cost to local governmental units of approximately \$30,000 for training and the purchasing of necessary code books.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This office does not anticipate any effect on revenue collections of state and local governmental units due to the adoption of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Economic cost or benefits to building owners due to the adoption of the 1991 edition of the Life Safety Code will depend upon the type of construction and the changes in the code applicable to the specific design.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adoption of these proposed rule changes will have no effect on competition or employment.

Rex McDonald
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Transportation and Environmental Safety Section

The Department of Public Safety and Corrections announces its intent to amend the current rules adopted pursuant to LA R.S. 32:1501 et seq., relating to the Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highway.

In 1987, through contract between the Department of Public Safety and Corrections and the U.S. Department of Transportation (USDOT), the state adopted portions of the Federal Motor Carrier Safety Regulations and Hazardous Materials Transportation Regulations as found in 49 CFR.

The purpose of these proposed rule changes is to incorporate technical changes that have been made in 49 CFR since the state's original adoption of rules in 1987. These changes include the United Nations classification and Hazard Communications system, performance-oriented packaging and the recodification of 48 CFR Part 178 where cargo tank requirements have now been codified as Part 180. Furthermore, the amendments make the commercial drivers' license (CDL) rules in the Motor Carrier Safety Regulations compatible with the existing state commercial drivers' license law enacted in 1989 as Act 293.

The proposed rule changes are scheduled to become effective on November 20, 1991. Comments will be accepted, in writing, by Sgt. Dale Hall, Louisiana State Police Transportation and Environmental Safety Section, Box 66614, Baton Rouge, LA 70896. Such comments will be accepted through close of business, 4:15 p.m. September 10, 1991.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Materials and Hazardous Waste Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highway

§10301. General Provisions

A. Through contract between the Department of Public Safety and Corrections and the U.S. Department of Transportation, the state has agreed to adopt and assume responsibility for enforcing certain federal regulations as required by 49 CFR 350.11 and additional regulations listed below. The authority to adopt such regulations is provided in R.S. 32:1501 et seq.

B. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

C. Any term used in these rules is used in its commonly accepted meaning except where the term has been specifically defined in R.S. 32:1502 or 49 CFR.

D. All rules or parts of rules adopted pursuant to R.S. 32:1504 that relate to highway transportation regulations and promulgated prior to January 20, 1988, are hereby repealed.

E. All authorizations for alternate means of compliance with prior regulations as provided in R.S. 32:1506, and all special permits and exemptions as provided in R.S. 32:1507, which relate to highway transportation and granted prior to January 20, 1988, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:

§10303. Adopted Regulations

A. The following federal Motor Carrier Safety Regulations and Hazardous Materials Regulations promulgated by the U.S. Department of Transportation, revised as of June 30, 1991, and contained in the following parts of CFR 49, as now in effect or as hereafter amended, are made a part of this Chapter.

HAZARDOUS MATERIALS REGULATIONS

Part 171 - General Information, Regulations, and Definitions

Part 172 - Hazardous Materials Tables and Hazardous Materials Communications Regulations

Part 173 - Shippers - General Requirements for Shipping and Packagings

Part 177 - Carriage by Public Highway

Part 178 - Shipping Container Specifications

Part 180 - Qualification and Maintenance of Packagings

MOTOR CARRIER SAFETY REGULATIONS

Part 383 - Commercial Drivers' License Standards

Part 390 - Federal Motor Carrier Safety Regulations: General

Part 391 - Qualifications of Drivers

Part 392 - Driving of Motor Vehicles

Part 393 - Parts and Accessories Necessary for Safe Operation

Part 395 - Hours of Service of Drivers

Part 396 - Inspection, Repair, and Maintenance

Part 397 - Transportation of Hazardous Materials, Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:

§10305. Applicability of Regulations

A. For the purpose of this Chapter, the federal regulations, as adopted or amended herein, shall govern all carriers,

drivers, persons or vehicles:

1. to which the federal regulations apply;

2. engaged in the transportation of hazardous materials within this state.

B. For the purpose of this Chapter, the federal motor carrier safety regulations, as adopted or amended herein, shall also govern all carriers, drivers, persons or vehicles not subject to the federal regulations if the operated vehicle has a single or combined gross vehicle weight rating greater than 20,000 pounds and is used in commerce or industry.

C. The adopted federal regulations applicable to all carriers, drivers, persons or vehicles set forth in Subsections A and B of this Section shall be amended as follows.

1. For the adopted regulations governing all carriers, drivers or vehicles as specified in Subchapter B, substitute "20,000 pounds" for all references made to "10,000 pounds";

2. Part 391.11(b)(1) shall read "is at least 21 years old, or is at least 18 years old and lawfully possesses an appropriately classified driver's license secured from the Louisiana Department of Public Safety and Corrections."

3. If a driver has been regularly employed by a motor carrier for a continuous period of no less than three years immediately prior to January 20, 1988, such driver is exempt from complying with Sections 391.21, 391.23, 391.33 and 391.41(b)(1), (2), (3), (4), (5), (10) and (11). The medical examiner's certificate must display upon its face the inscription "MEDICALLY UNQUALIFIED OUTSIDE LOUISIANA" when a driver is qualified in accordance with the provisions stated herein. However, should such a driver be no longer regularly employed by the carrier that qualified the driver for exemption from any of the noted regulations, the driver shall reapply, transfer or be subject to the provisions stated herein.

4. When applicable, the words "Louisiana Department of Public Safety and Corrections" and/or "Office of State Police" shall be substituted where "U.S. Department of Transportation," "Federal Highway Administration," "Federal Highway Administrator," "Director," "Bureau of Motor Carrier Safety," or "Office of Motor Carrier Safety" appear.

5. Where special U.S. Department of Transportation forms or procedures are specified or required, substitute the compatible Louisiana Department of Public Safety and Corrections forms or procedures if such are required by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:

§10307. Assessment of Civil Penalties

A. Any person who is determined by the secretary of the Department of Public Safety and Corrections, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of R.S. 32:1501 et seq., or adopted or promulgated regulations as provided in this Chapter, is subject to a civil penalty not to exceed the amount determined by applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:

§10309. Recovery of Civil Penalties

A. To enforce the collection of a civil penalty levied after due process upon a person determined by the secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of R.S. 32:1501 et seq. or adopted or promulgated regulations as provided in this Chapter, the secretary:

- 1. may order the removal of the offending vehicle's license tag if the registration is from this state;
- 2. may seize any vehicle not registered within the state which is owned by the person or company in violation;
- 3. shall have the driver's or operator's license suspended for a violation(s) committed by the driver or operator.

B. The secretary shall enforce the provisions of Sub-section A as follows:

1. The removal of a vehicle's license tag shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

2. When the person or company fails to remit a levied civil penalty within 90 days subsequent to the seizure of a vehicle as authorized in this Section, the Department of Public Safety and Corrections shall collect the penalty in a manner consistent with applicable portions of R.S. 32:521 et seq.

3. The suspension of a driver's license shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:

§10311. Records of Violations

A. Records of violations of adopted or promulgated regulations as provided in this Chapter shall not be subject to the requirements of R.S. 32:393.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:

Marlin A. Flores
Deputy Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: CFR 49, Parts 180 and 383**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no expected costs or savings to state or local governmental units from the proposed amendments to the rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no expected effect on revenue collections for state or local governmental units as a result of the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no projected impact to directly affected persons arising from adoption of these regulations.
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no known impact on competition or employment.

Rex McDonald
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Title 67

Part V. Office of Community Services

Chapter 1. Low Income Home Energy Assistance Program

§101. Authority

The Low Income Home Energy Assistance Program (LIHEAP) Block Grant provides grants to states for financial assistance to low income families to reduce the burden of home energy costs. The Low Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981) authorized LIHEAP.

§103. Program Goals

A. The primary goal of the Low Income Home Energy Assistance Program (LIHEAP) is to assist eligible households to meet the cost of home energy for heating and cooling.

B. The second goal is to conserve energy and reduce energy costs of these households through the weatherization of their dwelling units.

C. The third goal is to provide for energy crisis intervention in instances of weather-related and supply shortage emergencies.

§105. Funding Utilization

A. From the funds made available to the State of Louisiana annually under the Low Income Home Energy Assistance Block Grant, the Office of Community Services (OCS) may make allocations to other programs according to federal law and subject to the approval of a state plan adopted by the state of Louisiana and approved by the U.S. Department of Health and Human Services.

B. Prior to the adoption of a state plan by the agency, the report is made available for public review and written comments and at least one hearing is conducted in a major metropolitan area of the state.

C. The plan is available for review at the Office of Community Services, 1755 Florida Boulevard, Baton Rouge, LA. Costs for copies are established by the Division of Administration.

§107. Administration

LIHEAP is administered by the Department of Social Services through the Office of Community Services (OCS). Assistance is delivered through contracts negotiated by the Office of Community Services with designated community action agencies, local governmental units and qualifying recognized Indian tribal organizations.

A. Office of Community Services Responsibilities

The Office of Community Services is responsible for:

- 1. Development of the State Plan in accordance with

Section 2605 of Title XXVI of Public Law 97-35.

2. Establishing policy and providing policy interpretations relating to contract compliance, overall program issues and federal regulations.

3. Developing, monitoring and managing contracts for service delivery with providers and providing the providers with technical assistance.

4. Monitoring and evaluating the statewide LIHEAP program, utilizing on-site visits, field data collection instruments and service reports in the evaluation process.

B. Responsibilities of Home Energy Assistance Providers

In accordance with state policy and Section 2605 (b) (7) of Title XXVI of the Low Income Home Energy Assistance Act of 1981, as amended, home energy assistance providers are:

1. To conduct outreach activities designed to assure that eligible households, particularly households with elderly individuals or handicapped individuals, are made aware of energy related assistance.

2. To take applications.

3. To determine eligibility.

4. To notify participating households of the amount of assistance paid to vendors on their behalf.

5. To make payments to energy suppliers on behalf of participating households.

6. To effect a written agreement with local home energy suppliers such that the home energy suppliers agree:

a. Not to charge eligible assisted households more than the difference between energy assistance payments and actual outstanding home energy bills, or actual monthly rent, should the applicant be a renter and the energy cost is included in the rent;

b. Not to treat eligible households adversely because of such assistance under applicable provisions of state law or public regulatory requirements;

c. Not to discriminate in the cost of the goods supplied or the services provided against eligible households on whose behalf payments are made.

§109. Eligibility for Services

A. Definitions relating to eligible households:

1. Household means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common, or who make payments for energy included in the rent;

2. Income means all non-exempt gross income received by members of a household on a regular or predictable basis for one month, or all annualized non-exempt income received by members of a household on an irregular or fluctuating basis;

3. Housing unit means a house, a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

B. Eligible Categories. Home Energy Assistance services are targeted to two eligible categories of individuals:

1. Categorically eligible households are households in which one or more individuals are receiving the following during the month of application and there is no additional income:

a. AFDC (Aid to Families with Dependent Children)

b. SSI (Supplemental Security Income)

c. Food Stamps

d. Veterans and VA Survivors Pensions under Section

415, 512 or 542 of Title 38 of the United States Code.

2. Income eligible households are households with gross incomes which do not exceed 150 percent of the poverty level as established by the U.S. Department of Health and Human Services.

C. Eligibility Factors. LIHEAP service eligibility depends upon a household having a defined need for the service. Any household at least partially responsible for meeting its residential energy costs is considered vulnerable. Households are eligible when the household:

1. is categorically eligible, or

2. is income eligible, and

3. is considered to be vulnerable.

§111. Allowable Home Energy Payments

The amount of the energy assistance paid to energy suppliers on behalf of eligible households is based on a formula which is published in a state plan developed by the Office of Community Services in compliance with Title XXVI.

§113. Service Delivery

A. Administrative responsibility for reviewing eligibility and certifying households for home energy assistance and weatherization services rests with the individual community action agencies under contract to provide such services. Identification of provider agencies in each parish is contained in the state plan which is available for review at the Office of Community Services.

B. Service Delivery Requirements

1. All property owners and renters shall be treated equitably.

2. A uniform eligibility criterion will be applied to all households requesting heating and cooling benefits.

3. To the degree possible, an application form will be completed at the time an individual requests services and eligibility will be determined at the time the application is taken.

4. In no instance may an eligibility decision (disposition of application) exceed 30 calendar days from the date of application.

5. To the degree possible, a service should be delivered within 15 consecutive working days after the client is notified of his eligibility.

6. In no instance may the date of the service delivery exceed 60 calendar days from the date of the eligibility decision (disposition of application).

7. If the requested service cannot be provided, the client's request for the service shall be denied and he shall be notified in writing of the denial and given the right to a fair hearing.

8. Recipients of home energy assistance may apply every six months from the previous date of eligibility certification.

9. Notification of amount of assistance paid to vendors on their behalf must be sent to participating households.

§115. Available Information

The LIHEAP State Plan is available for review at local delivery sites and the Office of Community Services, 1755 Florida Boulevard, Baton Rouge, LA. Costs for copies are set by the Division of Administration.

Interested persons may submit written comments, within 20 days of the date of publication of this notice, to the following address: Brenda L. Kelley, Assistant Secretary, Of-

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Low Income Home Energy Assistance**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule provides a description of the Low Income Home Energy Assistance Program. There are no changes in the program. There are no implementation costs or savings to the state or local governmental units as this rule will have no impact on the current program or staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units. This rule does not provide for any changes in the program; it simply describes the current Low Income Home Energy Assistance Program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact on competition or employment. No changes have been made in the Low Income Home Energy Assistance Program.

Robert J. Hand
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Title 67

Part V. Office of Community Services

Chapter 2. Social Services Block Grant Program

§201. Authority

The state administers the Social Services Block Grant through the Department of Social Services, Office of Community Services in accordance with Title XX of the Social Security Act as amended by the Omnibus Budget Reconciliation Act of 1981 (PL 97-35), and with applicable federal regulations including 45 CFR Part 96 - Block Grants. The Office of Community Services of the Department of Social Services is responsible for the administration and delivery of services through direct provision and purchase of services.

§203. Federal Goals of Block Grant Program

The Goals of the Block Grant Program are:

A. Achieving or maintaining economic self-support to prevent, reduce or eliminate dependency;

B. Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

C. Preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;

D. Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care or other forms of less intensive care;

E. Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

§205. Services

A. Services provided under the Social Services Block Grant are defined annually in the final Intended Use Report which complies with Section 2004 of the Block Grant Statute and other federal regulations approved by the U.S. Department of Health and Human Services.

B. Prior to the adoption of the Intended Use Report by the agency, the report is made available for public review and written comments and at least one hearing is conducted in a major metropolitan area of the state. Notices are published in the official state journal and other major newspapers announcing public review.

C. Provision of services is based on the following categories of priorities:

1. Priority 1. - Life support services which if denied would place individuals at life threatening risk.

2. Priority 2. - Essential services, although non-life support, would maintain individual health and support the family unit.

3. Priority 3. - Those services which are important but do not meet the criteria of 1 and 2 above or are available from another source.

§207. Eligibility

A. Certain individuals and categories of individuals may be eligible for services according to federal regulations. These are:

1. Individuals, without regard to income, who are in need of adoption, child protection investigations, family services and/or foster care/residential habilitation services.

2. Individuals without regard to income who are recipients of Title IVE Adoption Assistance as amended by U.S. Public Law 96-272 including adoption assistance recipients who relocate to Louisiana from another state that is signatory to the Interstate Compact on Adoption and Medical Assistance.

3. Individuals without regard to income who are currently certified as classmembers in the federal class action judgement *Gary W. et al v. State of Louisiana et al*, United States District Court, Eastern District of Louisiana, Civil Action No. 74-2412, who are in need of any service (including children's day care) provided under the Intended Use Report.

4. Recipients of Aid to Families with Dependent Children (AFDC) and those persons whose needs were taken into account in determining the needs of AFDC recipients.

5. Recipients of Supplemental Security Income payments, or state supplemental payments, and blind and disabled individuals eligible for such payments except for their earned income.

6. Families with gross incomes which do not exceed 150 percent of the poverty level, as published yearly by the U.S. Department of Health and Human Services in the *Fed-*

eral Register. Family is defined as the basic family unit consisting of one or more adults and children, if any, related by blood or law and residing in the same household.

a. Where adults other than spouses reside together, each is considered a separate family.

b. Cohabiting non legal spouses are considered separate families.

c. When children are present in the home with non legal spouses, the parent who has primary responsibility for the care of his/her natural children are considered as being in the same family unit with the children.

d. Emancipated minors, foster children and children living under the care of individuals not legally responsible for their care are considered one person families.

7. Title XIX (Medicaid) recipients and applicants for Title XIX (Medicaid) vendor payment for Skilled Nursing Facility or Intermediate Care Facility services, residing within the state, are eligible for any appropriate service except Day Care for Children which requires applicants meet additional eligibility criteria which are described in the final Intended Use Report.

8. Residents of the Housing Authority of New Orleans projects and related sites are group eligible for necessary and available services with the exception of Day Care for Children, which maintains special eligibility criteria which are described in the final Intended Use Report.

§209. Responsibility for Eligibility Determination

A. Administrative responsibility for determining individuals eligible for direct delivered service and vendor services, and for certifying groups eligible for services, rests with the Office of Community Services.

B. Administrative responsibility for certifying individual applicants eligible for purchased social services rests with individual providers, unless otherwise specified.

§211. Copayments

A. The Office of Community Services may allow for copayments to be collected from recipients of certain services when the cost of providing the services exceeds the Office of Community Services reimbursement rate according to sliding fee scales which may be established by the Department of Social Services. Any sliding fee scales which are adopted during a year are available to the public for review at the Office of Community Services.

B. The copayment collected from a service recipient plus the Office of Community Services' reimbursement rate may meet but shall not exceed the actual cost or usual fee for delivering the service. The family/client will be furnished a copy of the sliding fee scale for their information.

§213. Funding

The appropriation and allocation of funds are subject to legislative and gubernatorial approval as well as the availability of federal and state funds. Louisiana's federal allotment of Social Services Block Grant funds is determined each fiscal year.

§215. Available Information

The final Intended Use Report is available for review at the Office of Community Services, 1755 Florida Boulevard, Baton Rouge, LA. Costs for copies are established by the Division of Administration.

Interested persons may submit written comments within 20 days of the date of publication of this notice, to the following address: Brenda L. Kelley, Assistant Secretary, Of-

fice of Community Services, Box 44367, Baton Rouge, LA 70804.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Social Services Block Grant Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule provides a description of the Social Services Block Grant Program. There are no changes in the program. There are no implementation costs or savings to the state or local governmental units as this rule will have no impact on the current program or staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units. This rule does not provide for any changes in the program; it simply describes the current Social Services Block Grant Program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact on competition or employment. No changes have been made in the Social Services Block Grant Program.

Robert J. Hand
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services Office of Community Services

Title 67

Part V. Office of Community Services Chapter 3. Weatherization Assistance Program §301. Authority

The Weatherization Assistance Program provides grants to states for material and labor to weatherize dwelling units of low income households, especially the handicapped and elderly. The program was established by Public Law 94-385 of 1976 (42 USC 6861 et seq.) and is funded through Department of Energy appropriated funds, Petroleum Violation Escrow funds and Low Income Home Energy Assistance funds.

§303. Goals of the Weatherization Assistance Program

A. To reduce national energy consumption, particularly imported oil.

B. To reduce the impact of higher fuel costs.

C. To improve the comfort level of low income families, especially the elderly and handicapped.

§305. Administration

A. The Department of Social Services, Office of Community Services administers the Weatherization Program through contractual agreements with non-profit contractors located throughout the state. The Office of Community Services is responsible for:

1. Preparation of the State Plan and Federal Grant Application
2. Selection of Contractors
3. Development of policies and procedures within the parameter of federal regulations
4. Interpretation of policies relating to federal regulations, program issues and compliance
5. Negotiating and monitoring contracts
6. Federal reporting and grants management

B. Contractors are responsible for the development and implementation of the Weatherization Program which serves the eligible persons in their designated parish.

C. Contractors are selected and evaluated on experience and performance in weatherization, experience in assisting low income persons in the area to be served and the capacity to undertake a timely and effective weatherization program.

§307. Contractor Responsibilities

Contractors are responsible for performing the following in accordance with U.S. Department of Energy pursuant to 10 CFR,440 regulations and policies and procedures by and available from the Office of Community Services.

A. Outreach activities designed to assure that eligible households, particularly households with elderly or handicapped individuals, are made aware of the Weatherization Assistance Program.

B. Determination of eligibility and documentation of eligibility determination for applicant households.

C. Provision of weatherization improvements to residences of eligible low income households.

D. Adherence to fiscal specifications regarding expenditures per dwelling unit.

E. Coordination of activities with similar and related programs administered by the state and federal government.

F. Establishment of fiscal control and fund accounting procedures necessary to assure proper disbursement of and accounting of federal funds paid.

G. Preparation and submittal of reports and information required by state and federal program administrators.

§309. Eligibility Factors

Eligibility for the Weatherization Assistance Program is based on verified documented alien status, categorical or income eligibility and dwelling unit eligibility.

A. Alien Status. Certain aliens who have been granted lawful status under Section 245A and Section 210A of the Immigration and Nationality Act are temporarily excluded from participating in the Weatherization Assistance Program. An alien verification form must be completed.

B. Categorical Eligibility. Households are categorically eligible if it is verified that one or more persons are, at the time of application or within the 12 months prior to the application, receiving at least one of the following, and there is or has been no counted income:

1. Aid to Families with Dependent Children (AFDC)
2. Supplemental Security Income (SSI)
3. Food Stamp Benefits
4. Veterans and Veterans Survivor's Pensions under Section 415, 512, 541 or 542 of Title 38 of the U.S. Code.

C. Income Eligibility. Income eligible applicants are those individuals whose household income is at or below 150 percent of the poverty level determined in accordance with the criteria established by the U.S. Director of the Office of Management and Budget. Income means total annual cash receipts before taxes from all sources including:

1. Money wages and salary
2. Net income from non-farm self employment
3. Net income from farm self employment
4. Social Security pensions, survivor's benefits and permanent disability insurance
5. Dividends, interest on savings or bonds and unearned income
6. Pensions and annuities
7. Unemployment compensation
8. Worker's compensation
9. Alimony
10. Child support
11. Veteran's pension

D. Dwelling Unit Eligibility

1. A single family unit shall be eligible if

- a. it is occupied by a family unit who is income eligible, or
- b. contains a member who was categorically eligible during the 12-month period preceding the determination of eligibility,
- c. has been pre-inspected and found to need one or more of the priority measures under §315.

2. A multi-family unit containing rental dwelling units is eligible if all requirements for a single family dwelling unit are met and it meets the following additional criteria:

a. The applicant resident is income or categorically eligible.

b. The contractor has obtained written permission of the owner to weatherize the dwelling units.

c. A certain percent of the families (as specified in the state plan) living in the dwelling units are eligible under income guidelines.

d. The dwelling units are eligible or will become eligible within 180 days under a federal, state or local government program for rehabilitating the building.

e. The contractor has insured the following:

i. Rent shall not be raised because of the increased value of the dwelling units due solely to weatherization assistance provided.

ii. No undue enhancement shall occur to the value of the dwelling units.

§311. Application Process

A. Applicants for weatherization services should apply to the contractor for the parish in which the applicant resides.

B. The application process includes:

1. A determination of eligibility as per §309.

2. A pre-inspection of the dwelling unit by the contractor to estimate the quantity and cost of materials and labor needed to perform weatherization services.

3. Assignment of a priority ranking to the applicant.

Applicants are ranked using guidelines which include the following and give priority to the elderly and handicapped:

- a. Applicant's age
- b. Household income
- c. Handicap
- d. Type of fuel used
- e. Length of time application has been on file

f. Condition of the dwelling unit
g. Other factors which in the discretion of the interviewer are not covered in the ranking but take into account other important existing conditions.

4. Disposition of the application.

a. Households are certified only if they meet all eligibility tests, and a Notice of Eligibility is sent to the applicant.

b. If the requested service cannot be approved, the request is denied, and the applicant is notified in writing giving the reason for the denial and informing the applicant of his right to appeal the decision by requesting a fair hearing.

c. Applications are considered incomplete rather than service denied if the applicant fails to follow through in providing necessary verifications.

5. Notification of the right to a fair hearing.

§313. Updating Eligibility Information

A. An applicant who is determined eligible remains eligible for one year with no new documentation required unless new information is acquired that indicates a change in status that could render the applicant ineligible.

B. If one year elapsed since eligibility was determined or if there was a change in status of the applicant, new documentation and a new determination of eligibility is made before any weatherization work is begun.

§315. Types of Weatherization Work

A. The following is a list of mandatory retrofits which must be in place or accounted for before a unit can be reported as a completed unit to the state and U.S. Department of Energy.

1. General heat waste measures (caulking, weatherstripping, replacement panes, windows and doors, hot water heater blanket, set back thermostat, low flow showerhead).

2. Insulation of ceilings (R-19).

3. Skirting of exposed foundations or floors.

B. The following optional measures are allowable after the mandatory retrofits have been addressed.

1. Insulation of floors.

2. Insulation of walls.

3. Insulation of partially insulated ceilings.

4. Storm windows (allowable only if the cost of materials and installation does not exceed per foot cost ceilings established by the U.S. Department of Energy).

C. Limits on expenditures per dwelling unit are established by federal regulations issued by the U.S. Department of Energy at 10 CFR Part 440. Within expenditure limits, an average of at least 40 percent must be spent for materials and no more than 60 percent can be spent on program support. Within established limits, incidental repairs necessary for the effectiveness or preservation of weatherization measures and materials can be done.

§317. Weatherization Standards

A. The Weatherization Assistance Program requires the use of audit procedures to determine the most cost effective weatherization measures. Project Retro Tech is used in Louisiana's Weatherization Assistance Program.

B. Standards for materials and installation are established by the U.S. Department of Energy.

§319. Evaluation of Contractors

Contractors are evaluated by the Office of Community Services based on financial and programmatic reports submitted by contractors and results of monitoring and financial reviews conducted by the Office of Community Services personnel.

§321. Available Information

Specific information relating to standards for installation and program regulations are contained in the Weatherization Assistance Program State Plan and the Weatherization Assistance Program Policy and Procedure Manual which are available for review in the Office of Community Services, 1755 Florida Boulevard, Baton Rouge, LA. Costs for copies are established by the Division of Administration.

Interested persons may submit written comments, within 20 days of the date of publication of this notice, to the following address: Brenda L. Kelley, Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804.

May Nelson
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Weatherization Assistance Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule provides a description of the Weatherization Assistance Program. There are no changes in the program. There are no implementation costs or savings to the state or local governmental units as this rule will have no impact on the current program or staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units. This rule does not provide for any changes in the program; it simply describes the current Weatherization Assistance Program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact on competition or employment. No changes have been made in the Weatherization Assistance Program.

Robert J. Hand
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Social Services, Office of Family Support, proposes to adopt the following rule in the Job Opportunities and Basic Skills (JOBS) Training Program, also referred to as Project Independence, the name of Louisiana's program.

This rule is mandated by federal regulations at 45 CFR 251.4 and 45 CFR 251.5 concerning Program Partici-

pant Employment Protection.

PROPOSED RULE

Louisiana will implement a grievance procedure, as mandated by federal regulations at 45 CFR 251.4, for resolving displacement complaints by regular employees or their representatives relating to Project Independence participants. Also, a grievance procedure will be implemented in accordance with federal regulations at 45 CFR 251.5 for resolving complaints by or on behalf of Project Independence participants in a work-related program or activity. This grievance procedure will hear complaints relating to on-the-job working conditions, worker's compensation coverage and wage rates used to calculate the hours of participation required of participants in the Community Work Experience Program.

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 26, 1991 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

May Nelson
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Job Opportunities and Basic Skills (JOBS) Training Program, or Project Independence

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule establishes a grievance procedure for resolving displacement complaints by regular employees or their representatives relating to Project Independence participants, and for resolving complaints by or on behalf of Project Independence participants in a work-related program or activity. It is anticipated to have no impact on total program costs because a minimum number of regular employees and Project Independence participants are expected to pursue this grievance procedure. Any additional work will be absorbed by the DSS Appeals Bureau without an increase in expenditures. Also, the entire Project Independence Program is funded through capped entitlement which establishes a funding limit on program expenditures. Therefore, implementation of this grievance procedure cannot increase program costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

There are no costs to directly affected persons or non-governmental groups. It could provide economic benefit in the form of increased earnings for individuals having the grievance decided in their favor. However, the number of individuals pursuing this grievance procedure is anticipated to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EM- PLOYMENT (Summary)

There is no effect projected on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Department of Wildlife and Fisheries does hereby give notice of its intent to amend and adopt the rule governing game breeder's license, that part dealing with wolves and wolf crosses.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§107. Game Breeder's License

A. This commission regulation established general requirements, minimum pen specifications and animals that will be permitted under the game breeder's license to read as follows:

1. For more detailed information contact the address listed below: Louisiana Department of Wildlife and Fisheries, Game Division, Box 98000, Baton Rouge, LA 70898-9000.

B. Minimum Pen Specifications and Requirements for Game Quadrupeds and Birds for Which a Game Breeder's License is Required. The dimensions and specifications described herein are considered as basic minimum standards for permanent exhibit facilities for the well-being of the animals and birds specified. It must be emphasized that these are minimum standards and the optimum conditions for most animals and birds would include dimensions at least several times greater than those cited.

1. Waterfowl

Single Bird: 100 square feet with 25 percent in water areas: increase pen size by 25 percent for each additional bird with one-fourth of this increase being in water area.

2. Doves

Single bird: 3 feet x 2 feet x 5 feet high. Community Group: Large enough to fly, or at least 8 feet in diameter.

3. Pheasants, Quail, Chukars

a. Exhibit Purposes. Single bird: 20 square feet; add 20 square feet for each additional bird.

b. Commercial Purposes. Extension Service Recommendations:

i. Quail: 1-10 days old: 9 chicks per square foot; 10 days - 6 weeks old: 6 chicks per square foot; 6 weeks and older: 3 birds per square foot; 1 breeding pair per square foot.

ii. Pheasants: 1-10 days old: 4 chicks per square foot; 10 days - 6 weeks old: 6 chicks per square foot; 6-14 weeks old: 1 bird per 4 square feet.

iii. Chukars: Same as Pheasants.

4. Hawks, Falcons

Refer to federal raptor facilities specifications

5. Squirrels

a. Single animal: 3 feet long x 3 feet wide x 4 feet high;

b. Additional animals: add 6 inches more in length per additional animal; several limbs, nest box.

c. Due to the inherent tendency of these animals to bite people and in an attempt to cooperate with Chapter II of the State Sanitary Code under authority of Act 601 of the 1974 Louisiana Legislature, specifically Section 2.05, it is further required that applicants provide a certificate from a licensed veterinarian stating that squirrels are free of rabies.

6. Rabbits

a. Single animals: 6 feet long x 3 feet wide x 3 feet high;

b. Additional animals: add 1 foot in length per animal; gnawing logs; den or retreat.

7. Whitetail Deer, Fallow Deer or Other Imported Deer

a. No license will be issued in metropolitan or urban areas. A rural environment is the first requirement to keep these animals.

b. Exhibit Purposes:

i. Single animal: 5000 square feet paddock or corral (50 feet wide x 100 feet long); increase corral size by 50 percent of that size for each additional animal; shelter required.

ii. Sturdy Corral Fence: 9 gauge chain link or other satisfactory woven wire, 8 feet high minimum.

c. Commercial Operation: Same fence construction but 15 acre minimum.

8. *Bear (license will not be issued)

a. Single animal: Sturdy pen (chain link wire) not less than 9 gauge with top cover 25 feet long x 12 feet wide x 10 feet high;

b. Pair: 30 feet x 15 feet x 10 feet high;

c. Pool: 5 feet x 4 feet x 18 inches deep, with facilities for spraying or wetting bears;

d. Den: 6 feet long x 4 feet wide x 4 feet high, per animal.

9. *Wolves and Wolf Crosses

a. No license will be issued to possess red wolves or red wolf hybrids.

b. Persons possessing full-blooded gray wolves must obtain a permit from the U.S. Fish and Wildlife Service. No license from the Louisiana Department of Wildlife and Fisheries necessary.

c. Persons possessing gray wolf-domestic dog hybrids must retain proof of parentage for each animal. No license from the Louisiana Department of Wildlife and Fisheries necessary.

d. Single animal: 15 feet long x 8 feet wide x 6 feet high; double cage area for each additional animal; secluded den area required; 4 feet x 4 feet for each animal; sturdy wire required.

10. *Cougar, Mountain Lion (license will not be issued)

a. Single animal: 10 feet long x 8 feet wide x 8 feet high;

b. Materials: not less than 9 gauge chain link or equivalent and safety perimeter rail; danger sign, claw long; 24-inch wide shelf, 8 feet long, 40 inches off floor.

*NOTE: Current valid Game Breeder's License holders for these species will be "grandfathered" and renewed annually until existing captive animals expire, or are legally sold, traded, etc. out of state or to a suitable public facility.

This position by the department is necessary due to the ability of these specific animals to cause serious physical injury to the owner, or other innocent bystanders. Qualified educational institutions, zoos or scientific organizations will be accepted to this provision on a case-by-case basis.

11. General Requirements:

A. Game animals and birds cannot be taken from the wild nor released into the wild except as provided on shooting preserves (The only exception to this policy is that hawks and falcons may be taken from the wild by falconers, as provided for in their federal regulations). Applicants are required to have a bill of sale for each animal acquired, and to keep records of all birds and animals sold or transferred, and the names and addresses to whom they were sold or transferred. These records shall be subject to inspection at any time by Wildlife and Fisheries employees.

B. Additionally, it is the responsibility of the applicant to comply with pen specifications. In addition to the described pen dimensions all bird and animal pens must include adequate feeding and watering facilities necessary for the well-being of the animal. Applicants for waterfowls, doves, pheasants, quail, chukars, squirrels and rabbits must submit a form verifying their facilities meet or exceed the described pen specifications, along with a copy of the bill of sale. Their facilities may require inspection at the biologist's discretion. All deer and potentially dangerous animals' pens must be inspected for security.

C. Game breeders can only keep those species for which they have been approved to keep. If applicant desires to keep additional species, the facilities for those species must be inspected and approved prior to obtaining the new species.

D. All new applicants for a game breeder's license as well as renewal applicants for all deer and the previously specified potentially dangerous animals must submit:

1. a signed waiver statement holding the Department of Wildlife and Fisheries and its employees harmless of liability as a result of issuing a game breeder's license. License will only be issued to those applicants whom are willing to accept full responsibility and liability for any damages or injuries resulting from their animals or activities as a licensed game breeder of domesticated wildlife in Louisiana;

2. a written plan of action for recapture of an escaped animal must be submitted and approved by the department before the application is processed. The plan of action should include

a. equipment,

b. personnel,

c. recovery techniques, and

d. method of mitigation payments for damages caused by the escaped animal.

This information is necessary because the Department of Wildlife and Fisheries will not provide these services.

Interested persons may submit oral and written comments relative to the proposed amended rule until 4:30 p.m., October 18, 1991, and are to be sent to Johnnie Tarver, Administrator, Habitat Conservation Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:171.

HISTORICAL NOTE: Promulgated by the Department

A. Kell McInnis, III
Acting Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Game Breeder's License-Wolves
& Wolf Hybrids**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Promulgation of this rule will not result in any additional costs to state or local governments. Strict enforcement of the existing rule would be very expensive and time consuming, and may be unenforceable.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This proposed rule will have no effect on revenue collection of state or local units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Numerous people now possess and/or breed wolf hybrids in Louisiana. The proposed rule change simplifies requirements of ownership of wolf hybrids and will result in enhanced compliance with wildlife and fishery rules and regulations, thereby reducing the cost of ownership of these animals.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no effect on competition or employment.

Bettsie Baker
Undersecretary

David W. Hood
Senior Fiscal Analyst

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

The next retail floristry examinations will be given at 9:30 a.m. daily at the Lafayette Regional Vocational-Technical Institute, 1101 Bertrand Drive, Lafayette, LA 70506, (318) 235-5541. The deadline for getting in application and fee is October 1, 1991. All applications and fees must be in the Horticulture Commission Office no later than 4:30 p.m. on the deadline date. The test dates will be October 22-25, 1991.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone 504/925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Employment and Training Office of Employment Security

Pursuant to Act No. 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum worker's compensation weekly benefit amount will be based effective September 1, 1991 has been determined by the Louisiana Department of Employment and Training to be \$393.08.

Phyllis Mouton
Secretary

POTPOURRI

Department of Environmental Quality Office of the Secretary

PUBLIC NOTICE

The Department of Environmental Quality, Office of the Secretary, Municipal Facilities Division, will conduct a public hearing to present, for public review and comment, the proposed FY 1992 Municipal Facilities Project Priority List and the Municipal Facilities Revolving Loan Fund Intended Use Plan. Also being presented for public review and comment will be the revised FY 1991 Intended Use Plan. The Priority List is a ranking of communities that are eligible to request financial assistance through the Municipal Facilities Revolving Loan Fund. The Intended Use Plan identifies the intended uses of funds available to the Revolving Loan Fund and the criteria and method for their distribution. The Priority List is prepared in accordance with the provisions in 40 CFR 35.2015-2025 and Section 603(c) of Title VI of the Federal Water Quality Act of 1987. The Intended Use Plan is prepared in accordance with the provisions of Section 606(c) of Title VI of the Federal Water Quality Act of 1987.

The public hearing will be held on August 28, 1991, at 10 a.m. in the 6th Floor Conference Room of the Department of Environmental Quality, 7290 Bluebonnet Blvd., Baton Rouge, LA. Interested persons may submit written comments to William B. DeVillie, Administrator, Municipal Facilities Division, Box 82263, Baton Rouge, LA 70884-2263. Written comments will be received until September 4, 1991.

Copies of the proposed FY 1992 Municipal Facilities Priority List, the proposed FY 1992 Intended Use Plan and the revised FY 1991 Intended Use Plan will be available for public review at least 30 days prior to the public hearing at the Department of Environmental Quality, Municipal Facilities Division, 7290 Bluebonnet Blvd., Room 6311, Baton Rouge, LA, and in the following Department of Environmental Quality Regional Offices throughout the state:

Acadiana Regional Office, 100 Eppler Road, Lafayette, LA

Bayou Lafourche Regional Office, 302 Barataria Street, Lockport, LA

Capitol Regional Office, 11720 Airline Highway, Baton Rouge, LA

Central Regional Office, 402 Rainbow Drive, Pineville, LA

Northeast Regional Office, 804 North 31st Street, Monroe, LA

Northwest Regional Office, 1525 Fairfield, Room 11,
Shreveport, LA
Southeast Regional Office, 3945 N. I-10 Service Rd.
W., Metairie, LA
Southwest Regional Office, 1155 Ryan Street, Lake
Charles, LA

Paul H. Temple
Secretary

POTPOURRI

**Department of Health and Hospitals
Office of the Secretary**

Notice is hereby given that the Louisiana Health Care Authority (LHCA) council is seeking nominations for the LHCA board. The governor must appoint nine at-large members to the board from a list of 36. Eighteen of the 36 nominations must come from legislators, and five of the nine appointments must come from the legislative nominees.

Nominations should come from legislators, other elected officials, community-based, labor, civic, business and professional organizations and interested persons.

No more than two members may be appointed from each public service commission district. Members of the board must comply with the Code of Governmental Ethics, and in addition cannot own or have any interest or part in any public or private organization, business, company, or entity conducting business with the authority or any of its nine medical centers.

Geographic diversity, ethnic diversity and diversity in expertise and perspective must be maintained in making appointments.

Contact Billy Cadwallader at (504) 342-9501 for a copy of the official LHCA nominee application form. Applications must be submitted to Mrs. Cadwallader, LHCA Coordinator, Box 629, Bin 2, Baton Rouge, LA 70821-0629 by close of business on Friday, September 6, 1991.

David L. Ramsey
Secretary

POTPOURRI

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is providing notice that the Title XIX Medicaid reimbursement rates for skilled nursing, intermediate care I and intermediate care II levels of care are as follows, effective July 1, 1991.

Level of Care	Daily	Monthly
Skilled Nursing	\$59.27	\$1,802.80
Intermediate Care I	\$50.91	\$1,548.51
Intermediate Care II	\$41.25	\$1,254.69

David L. Ramsey
Secretary

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

DOCKET NUMBER IMD 91-26

In accordance with the laws of the State of Louisiana, and with particular reference to the provisions of LRS 30:4, notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 6 p.m., Tuesday September 24, 1991 in the Cameron Parish Police Jury Annex Building located on Court House Square in Cameron, LA.

At such hearing the Commissioner of Conservation or his designated representative will hear testimony relative to the application of Newpark Environmental Services, Inc., Box 54024, Lafayette, LA 70505. The applicant intends to construct and operate a commercial nonhazardous oilfield waste transfer station facility in Section 31, Township 14 South, Range 09 West, Cameron Parish, Louisiana.

The application is available for inspection by contacting Al Troy, Office of Conservation, Injection and Mining, Room 253 of the Natural Resources Building, 625 North 4th Street, Baton Rouge, LA, or by visiting the Cameron Parish Police Jury Office in Cameron, LA. Verbal information may be received by calling Al Troy at 504/342-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 5 p.m., October 1, 1991, at the Baton Rouge Office. Comments should be directed to: Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA 70804, Re: Docket No. IMD 91-26, Commercial Facility, Cameron Parish.

J. Patrick Batchelor
Commissioner

(Editor's Note: The following Potpourri as appeared in the *Louisiana Register*, July, 1991, page 743, is being reprinted to correct a typographical error.)

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that thirty claims in the amount of \$76,411.29 were received in the month of June 1991, six claims in the amount of \$11,113.35 were paid, and one claim was denied.

Loran C. coordinates of reported underwater obstructions are:

28265	46824
28559	46859
28326	46829
28088	46829
28538	46856
29270	47031

27734	46884
28156	46831
28578	46855
28591	46879
26874	46964

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Ron Gomez
Secretary

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 35 claims in the amount of \$69,305.17 were received in the month of July 1991, five claims in the amount of \$10,312.32 were paid, and eight claims were denied.

Loran C. coordinates of reported underwater obstructions are:

28788	47030
27958	46868
28566	46861
28099	46849
28572	46865
26684	46877
29088	46906
29072	46906
29685	46438
29047	46941
29090	47056
29050	47040

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA. 70804, or by telephone (504) 342-0122.

Ron Gomez
Secretary

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