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Executive Orders

EXECUTIVE ORDER MJF 96 - 5

Assistant District Attorneys Advisory and Review Commission

WHEREAS: the members of the Louisiana District Attorney's Association have a paramount interest in promoting improvement of the criminal justice system in the State of Louisiana; and to effectively discharge that responsibility, assistant district attorneys are needed to prosecute both civil and criminal matters; and

WHEREAS: there are annual requests from the Judicial Districts for additional assistant district attorneys as a result of population increases, increases in the rate of crimes and increases in the responsibilities of district attorneys; and

WHEREAS: there is currently no fixed criteria to determine the appropriateness and need for additional assistant district attorneys; and

WHEREAS: there is a need to establish a body to determine criteria, need, fiscal impact and feasibility of when to allocate warrants for additional assistant district attorneys; and

WHEREAS: such a body should be representative of the Judiciary, Legislative and Executive branches of government as well as experienced prosecutors.

NOW THEREFORE I, MURPHY J. FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested in me through the Constitution and laws of the State of Louisiana, do hereby create and establish the Governor's Advisory and Review Commission on Assistant District Attorneys, and do hereby order and direct as follows:

SECTION 1: The Governor's Advisory and Review Commission on Assistant District Attorneys shall be composed of the following members:

1. Judicial Administrator of the Louisiana Supreme Court;
2. Speaker of the Louisiana House of Representatives, or his designee;
3. President of the Louisiana Senate, or his designee;
4. Chairman of the House Judiciary Committee;
5. Chairman of the Senate Judiciary "B" Committee;
6. President of the Louisiana District Attorneys Association; and
7. Executive Counsel to the Governor.

SECTION 2: The governor shall appoint the chairman of the Governor's Advisory and Review Commission on Assistant District Attorneys.

SECTION 3: No member of the Governor's Advisory and Review Commission on Assistant District Attorneys shall receive per diem or other compensation for the performance of their duties.

SECTION 4: The Governor's Advisory and Review Commission on Assistant District Attorneys shall be charged with the responsibility of determining the need, criteria, financial impact and feasibility of adding assistant district attorneys, and recommending the creation of such additional

assistant district attorneys to the governor and legislature.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Governor's Advisory and Review Commission on Assistant District Attorneys in implementing the provisions of this Executive Order.

SECTION 6: The provisions of this Executive Order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of March, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9604#007

EXECUTIVE ORDER MJF 96 - 6

Advisory Council on Safe and Drug-Free Schools and Communities

WHEREAS: the use of illicit drugs and firearms remains a serious and intractable problem in our society;

WHEREAS: the United States has the highest rate of teenage drug use of any industrialized nation; and

WHEREAS: the tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the nation; and

WHEREAS: the Congress finds that the National Education goal provides that by the year 2000 all schools in America will be free of drugs and violence and the unauthorized presence of firearms and alcohol, and offer a discipline environment that is conducive to learning; and

WHEREAS: the Congress of the United States has passed the Drug-free Schools and Communities has passed the Drug-Free Schools and Communities Act of 1986 which provides funds to the states to mobilize schools and local organizations in communities throughout the nation in a coordinated program of prevention to bring closer the goal of a drug-free generation and a drug-free society; and

WHEREAS: the coordinated effort can be significantly advanced in Louisiana through the continuation of an advisory council to the governor;

NOW THEREFORE I, MURPHY J. FOSTER, JR., Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Governor's Advisory Council on Safe and Drug-Free Schools and Communities is hereby continued with the Governor's Office.

SECTION 2: The council shall be composed of 13 members, each of whom shall be appointed by the governor to serve at his pleasure. The governor shall designate one member to serve as chairman of the council.

SECTION 3: The duties of the council shall include but not be limited to the following:

- A. Assist in setting priorities for the state's Safe and Drug-Free Schools and Communities Act program.
- B. Contribute to the design of Requests for Proposals.
- C. Review and make recommendations on proposals.
- D. Review monitoring reports on grantees.
- E. Recommend disposition of contracts in the case of non-complying agencies.

SECTION 4: The Governor's Office shall provide such resources, clerical support, and management assistance as may be required to enable the council to carry out its duties.

SECTION 5: No member of the council shall receive per diem or other compensation for the performance of his duties.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of March, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9604#008

EXECUTIVE ORDER MJF 96 - 7

Small Business Bonding Assistance Program

WHEREAS: the State of Louisiana is home to numerous economically disadvantaged contracting businesses; and

WHEREAS: many of these economically disadvantaged contracting businesses find themselves at a competitive disadvantage in bidding for various public and private contracting jobs because they are limited by their lack of knowledge of management and financing techniques, standards, and procedures, and in particular by their inability to meet the managerial and financial standards set by surety companies; and

WHEREAS: if the skill, hard work, and enthusiasm of these economically disadvantaged contracting businesses is supplemented with sufficient professional and financial advice and assistance, then such businesses will be able to fairly compete for their first contracting jobs or increase their current bond limit and surety companies in Louisiana will be encouraged to assist such contractors; and

WHEREAS: Act Number 851 of the 1990 Regular Legislative Session created the Louisiana Small Business Bonding Assistance Program to provide such advice and assistance to economically disadvantaged contracting

businesses and further provides that the program terminated on June 30, 1993; and

WHEREAS: Executive Order MJF 96-3, requires the Department of Economic Development to develop a program to assist economically disadvantaged businesses and one of the purposes of that assistance is to provide easier access to bonding assistance; and

WHEREAS: the State of Louisiana's economically disadvantaged contracting businesses Louisiana Small Business Bonding Assistance Program is allowed to continue its efforts in assisting these businesses.

NOW THEREFORE, I, MURPHY J. FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby order and direct the following:

SECTION 1: The Louisiana Small Business Bonding Assistance Program is hereby recreated within the Department of Economic Development.

SECTION 2: The terms used herein shall have the meaning ascribed to them in Louisiana R.S. 51:2303 unless the context clearly indicates a different meaning. However, the following terms shall have the following meanings:

A. *Approved Surety Company* means a surety company approved by the secretary for participation in providing direct bonding assistance to qualified contractors.

B. *Bonds* means any bond or security required for bid, payment, or performance of contracts.

C. *Department* means the Department of Economic Development.

D. *Director* means the director of the Louisiana Small Business Bonding Assistance Program, or a person duly authorized by the director to act on his behalf.

E. *Program* means the Louisiana Small Business Bonding Assistance Program, as provided for herein.

F. *Qualified Contractor* means an economically disadvantaged resident small business contractor which has obtained a certificate of accreditation from the Louisiana Contractor Accreditation Institute.

G. *Resident Small Business Contractor* means a small business enterprise headquartered, operating, and domiciled in the state and which is a contractor licensed under the laws of this state.

H. *Subcenter* means any subcenter of the Louisiana Small Business Development Center.

SECTION 3: The secretary of the Department of Economic Development, hereinafter referred to as secretary, shall select the director of the Louisiana Small Business Bonding Assistance Program. The secretary shall also assign a program assistant. The director and the program assistant shall devote all of their time to the development, implementation, and administration of the program.

SECTION 4: The director, in implementing the program, shall have the following powers, duties, and functions:

A. In General. The director shall assist resident economically disadvantaged small contracting businesses in acquiring the managerial and financial skills, standards, and assistance necessary to enable them to obtain bid, payment, and performance bonds from surety companies for either advertised or designated contracts.

B. Louisiana Contractor Accreditation Institute. The director shall establish a Louisiana Contractor Accreditation Institute, with the advice and assistance of the office of the Louisiana Small Business Development Center, the department, surety companies, and other businesses and associations related to the contracting field.

The institute shall be a standard course of instruction given under the supervision and coordination of the director by subcenters of the Louisiana Small Business Development Center to resident small business contractors. The instruction shall be intensive, practical training courses in financing, bidding for contracts, managing, accounting, and record keeping for a contracting business, with an emphasis on federal, state, local, or private programs available to assist small contractors. The institute course shall be given by professionals chosen by the director, who have practical knowledge and experience in those areas.

The institute shall be held by the subcenters in major cities throughout the state at times chosen by the director, which are convenient for people in the contracting business. The course of instruction and the textbooks or workbooks to be utilized in such instruction shall be selected or developed by the director with the advice and assistance of the subcenters in the state.

Any resident small business contractor or key manager of such a contractor may attend any course of instruction offered by the institute at any place and at any time such instruction is offered by a subcenter. The subcenters shall keep records of the attendance by such contractors or their employees at the various courses. When the records reflect that a resident small business contractor or a key management employee of such a contractor has attended all of the courses of instruction offered by the institute, the contractor shall be awarded a certificate of accreditation acknowledging his successful completion of the course.

A certificate of accreditation may be awarded by a subcenter upon approval by the director if a review of a contractor's education, experience, and business history indicates that the contractor, or a key management employee of such contractor, already possesses the knowledge and skills offered by the institute, or if the contractor or his employee successfully completes the test required of regular institute participants.

C. Technical and Support Assistance. Provided that the Louisiana Legislature establishes a Louisiana Small Business Bonding Assistance Fund, the director may provide a grant to a subcenter of no more than \$7,500 on behalf of a qualified contractor for the acquisition of the professional services of certified public accountants, construction management companies, the subcenter itself, or any other technical, surety, financial, or managerial professionals. Such professionals may assess or audit the operations, finances, bookkeeping, and record keeping of the qualified contractor and may make recommendations, prepare statements and reports, and consult with and train contractor personnel regarding any of the contractor's procedures and practices in order to assist the contractor to obtain a bond for a particular contract and, in the long run, to enhance the long term competitiveness and

self-sufficiency of the contractor. This assistance shall only be available to a small business contractor on a one-time basis.

D. Bonding Assistance. Provided that the Louisiana Legislature establishes a Louisiana Small Business Bonding Assistance Fund, if a qualified contractor makes an application for a bond to an approved surety company for a public or private contracting job, but fails to obtain the bond because he is unable to meet the requirements of the surety company on such bonding contracts, for reasons other than non-performance, the approved surety company may apply to the director to have the bond perfected and issued under the Louisiana Small Business Bonding Assistance Program as provided herein.

Upon receipt of such an application from a surety company, the director shall provide written notification of the application to the appropriate subcenter nearest the qualified contractor's principle place of business. The director and the secretary of the department shall review the application in order to verify that the bond being sought by the applicant is needed by the applicant and that the contract is within the contractor's capability to perform and the contractor has not been denied a bond due to non-performance. The director and the secretary of the department shall either approve or disapprove the application. If the application is approved, the surety company shall perfect a contract with and issue a bond to the qualified contractor in the manner provided for herein.

The director may use money in the fund, provided that the legislature creates said fund, to guarantee the bonds issued by approved surety companies for qualified contractors who have applied to the director on behalf of such qualified contractors for a bond to be issued under the program.

If the director and the secretary of the department approve the application of such an approved surety company, then the director shall enter into an agreement with the surety company whereby the company shall enter into a contract with and issue the required bond to the qualified contractor at the standard fees and charges usually made by the surety for the type and amount of the bond issued to the qualified contractor. The bond issued by the surety company shall be guaranteed by money in the fund, provided it is created. In return, the surety company shall agree to remit promptly to the director all fees or charges or other amounts collected by the company from the qualified contractor, except for the amounts of such fees and charges the director agrees to provide to the surety company as compensation to the company for entering into the contract. The surety company shall also agree to make a reasonable, good faith effort to pursue and collect any claims it may have against a qualified contractor who defaults on such bonds, including but not limited to the institution of legal proceedings against the defaulting contractor, prior to collecting on the guarantee; again, in return for such compensation to which the director and the surety company agree.

The money to be used to guarantee bonds and to pay defaulted bonds pursuant to this Section shall be all the money in the Louisiana Small Business Bonding Assistance Fund that is not otherwise expended, encumbered, or allocated for purposes provided for elsewhere in this executive order,

provided said fund is created by the legislature. However, the full faith and credit of the State of Louisiana shall not be pledged to secure the bonds, and the state's liability shall be limited to the money appropriated by the legislature.

Provided that the legislature creates said fund, the director shall immediately deposit into the fund, all fees, charges, or other amounts collected by the director from the issuance of bonds as provided for herein.

E. Qualification for Technical and Support Assistance. Provided that the Louisiana Legislature establishes the Louisiana Small Business Bonding Assistance Fund, any resident economically disadvantaged small business contractor shall apply for the technical and support assistance provided herein at any subcenter in the state.

The subcenter, based upon standards established by the director, shall perform an initial evaluation of the applicant to determine whether he is qualified to participate in the program and whether he has sufficient capability to benefit from the program, the level of such capability, and his corresponding needs for the types of assistance provided for herein. The subcenter shall forward such application and evaluation to the director.

If the director and the secretary of the department determine that the contractor is qualified, has a need for the professional services, and has a sufficient level of capability, the secretary and the applicant shall then agree that the applicant shall fully cooperate and comply with the advice and recommendations of the director, the subcenter, and any professionals rendering services pursuant to the program, and that he shall abide by any rules related to the program. The contractor shall agree that a failure to cooperate, comply, or abide by the rules shall result in loss of services or a demand for reimbursement by the director.

Upon agreement to such conditions by the qualified contractor, the director shall provide to the appropriate subcenter a grant in an amount deemed sufficient by the director to meet the needs of the contractor, but in no case may any single contractor receive more than \$7,500 in grant-related services from this program.

The grant issued to assist the contractor shall be coordinated and administered by the subcenter under the supervision of the director. However, nothing herein shall be construed to restrict the rendering of services to the contractor by the subcenter over and above the services provided by the grant. The director and the subcenter shall monitor the performance of the contractor under the secured contract and shall provide such further assistance as is necessary to insure that all program requirements be met and that the contract is successfully completed.

F. Rules and Regulations. The director shall promulgate rules and regulations to implement the programs, procedures, and purposes set forth herein. Such regulations shall include, but shall not be limited to, the following:

(1) The standards and procedures for determining the course content and other requirements of the Louisiana Contractor Accreditation Institute, including the standards to be used to determine whether a certificate of accreditation should be awarded pursuant to Section 4 (B).

(2) The standards to be used by the director in determining whether a qualified contractor has the need and the level of capability, and whether he is otherwise eligible for professional assistance pursuant to the provisions of the program.

(3) The standards to be used by the director in determining whether a surety company and a qualified contractor shall be approved for participation in the direct bonding assistance.

(4) The standards to be used in determining the amount of compensation which may be deducted by an approved surety company from fees and charges and other amounts paid by a qualified contractor to the company pursuant to a bond issued under the provision of this executive order.

(5) The other terms and conditions by which the director shall guarantee a bond issued by an approved surety company, including the actions and procedures which will be required of such company in the event of a default by the contractor.

G. Other. Any other duties and functions as required by the governor.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, and in particular, the Division of Administration, the Louisiana Small Business Development Center and each subcenter, the Department of Insurance, the Louisiana Public Finance Authority, and Northeast Louisiana University, School of Construction, are authorized and directed to cooperate with the Louisiana Small Business Bonding Assistance Program in implementing the provisions of this Executive Order.

SECTION 6: The provisions of this Executive Order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of March, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9604#009

EXECUTIVE ORDER MJF 96 - 8

Louisiana LEARN Commission

WHEREAS: Louisiana is in need of state and local strategic planning for education for the 21st century that builds upon existing and future school reform initiatives; and

WHEREAS: every student in Louisiana must have equal access to an education that promotes high expectation and results; and

WHEREAS: greater degrees of autonomy and flexibility must be awarded to school districts, schools, and local communities to ensure the development of an educational program which best meets the needs of their students; and

WHEREAS: deregulation and restructuring must occur at the state level in order to better support the needs of local districts, schools, and communities; and

WHEREAS: greater levels of accountability must occur to ensure that every Louisiana student is receiving an appropriate education; and

WHEREAS: all existing federal, state and local educational funds must be coordinated to ensure maximum benefits from such resources; and

WHEREAS: technology must be integrated into all aspects of the educational process; and

WHEREAS: many committed citizens in Louisiana are already involved in broad-based partnerships to improve education in local communities.

NOW THEREFORE I, M. J. "MIKE" FOSTER, Governor of the State of Louisiana, by virtue of the state constitution and the laws of the State of Louisiana, do hereby establish a *Louisiana LEARN Commission*, which shall be domiciled in the Governor's office.

SECTION 1: The *Louisiana LEARN Commission* shall:

A. Involve a bipartisan panel of Louisianians to develop policy recommendations regarding state-wide educational reform efforts, who will responsible for:

1. overseeing the development of a state consolidation plan to improve education. Such a plan shall be completed by no later than June 30, 1996.

2. developing recommendations regarding the implementation of key aspects of the state plan. Such implementation efforts shall include at a minimum the deregulation of state education laws and rules; the establishment of an accountability process for public schools and districts; and state and local restructuring efforts including the restructuring of the Department of Education. Such recommendations shall be completed by no later than February 1, 1997.

3. overseeing the implementation of the state plan and related education reform initiatives. As appropriate, on-going recommendations shall be developed regarding adjustments to the state plan and continued implementation efforts.

B. Forward all recommendations to the Governor, Chairs of the Senate and House Committees on Education, and the State Superintendent of Public Instruction, as well as making such recommendations available to the public.

SECTION 2: The *Louisiana LEARN Commission* shall initially consist of not less than 15 members and will be expanded to include members who represent at least the following categories:

Governor

State Superintendent of Schools

Representatives of:

State Board of Education;

State Legislature;

Teachers;

Principals;

School Administrators;

Higher Education;

Teacher Organizations;

Parents;

Secondary School Students;

Business and Labor;

Community Based Organizations;

Local Boards of Education;

Local/State Officials responsible for Health, Social and other related services;

Non-public schools;

Experts in educational measurement and assessment.

SECTION 3: The Governor and State Superintendent may replace individuals on the commission and may add new members as appropriate.

SECTION 4: Staff support shall be provided by the Louisiana Department of Education, as well as the Governor's office.

SECTION 5: The provisions of this Executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of March, 1996.

M. J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9604#010

Emergency Rules

DECLARATION OF EMERGENCY

Office of the Governor
Crime Victims Reparations Board

Compensation to Victims (LAC 22:XIII.Chapters 1-5)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, allows the Crime Victims Reparations Board to promulgate rules necessary to carry out its business or the provisions of the Chapter. The board hereby finds that an emergency exists whereby victims or the claimants in the case of deceased victims will suffer an immediate, detrimental financial loss of compensation estimated at \$248,640 over the six months necessary to go through rule making if these adopted rules are not immediately implemented. These rules remove policy

constraints of automatic denial and automatic reduction of awards for certain victims, remove life insurance as a collateral offset for certain claimants, and increase the maximum amount of lost wages and loss of support awards. Furthermore, the changes cover an area previously not covered by board rule which presented in very recent files, will allow for quicker delivery of board checks, and will ensure compliance with federal grant requirements. In order to prevent additional harm to victims and their families, the board adopts these rules effective March 13, 1996. They shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 1. Authority and Definitions

§103. Definitions

Collateral Source or Resource—source of benefits for pecuniary loss awardable, other than under these rules, which the claimant has received or which is readily available to him/her from any or all of the following:

f. proceeds of a contract of insurance payable to the claimant for pecuniary loss sustained by the claimant by reason of the crime.

Pecuniary Loss—amount of expense reasonably and necessarily incurred by reason of personal injury, as a consequence of death, or a catastrophic property loss, and includes:

b. as a consequence of death:

iii. care of a child or children enabling the surviving spouse of a victim or the legal custodian or caretaker of the deceased victim's child or children to engage in lawful employment, where that expense is not otherwise compensated for as a pecuniary loss for personal injury.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:

Chapter 3. Eligibility and Application Process

§301. Eligibility

To be eligible for compensation, an individual must have suffered personal injury as a result of a violent crime.

1. Contribution

a. The Crime Victims Reparations Board may vote not to make an award to a claimant who is a victim, or who claims an award of reparations through a victim, when any of the following occurs:

i. - iii. ...

b. As Louisiana law requires all drivers and front seat passengers to use seat belts, victims not wearing a seat belt and injured or killed by a driver in violation of R.S. 14:98

(DWI), if found eligible otherwise, may have their award reduced. The total maximum award allowed under current policy may be reduced by 50 percent.

3. Unjust Enrichment

a. When determining unjust enrichment or substantial economic benefit to offenders in applications involving domestic violence, the board will consider the following factors:

i. Has the victim reported the incident to the authorities and has the victim cooperated with their reasonable requests?

ii. In determining whether enrichment is substantial or inconsequential, factors to be considered include:

(a). the amount of the award,

(b). the total amount of income to the household,

and

(c). whether a substantial portion of the award will be used directly by or on behalf of the offender.

b. If the offender has direct access to a cash award and/or if a substantial portion of it will be used to pay for his living expenses, that portion of the award that will substantially benefit the offender may be reduced or denied.

c. The availability of collateral resources, including but not limited to court-ordered restitution and medical insurance, will be examined. A determination shall be made:

i. as to whether the offender has a legal responsibility to pay,

ii. whether the offender has resources to pay,

iii. whether payment is likely.

d. The victim shall not be penalized for the failure of an offender to meet legal obligations to pay for the costs of the victim's recovery.

e. If the offender fails to meet legal responsibilities to pay restitution or provide for the medical and support needs of a spouse or child, or if the offender impedes payment of insurance that may be available to cover a spouse's or child's expenses, the program should attempt to meet the victim's needs to the extent allowed.

f. Payments to third-party providers will be made wherever possible.

g. Child victims will not be penalized by denying or delaying payment when offender or collateral resources are not forthcoming.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:

§303. Application Process

A. Claimant Responsibility

1. -5. ...

6. The victim/claimant is required to use claim forms to seek additional compensation after the original award is made.

B. 1.-2. ...

C. Board Staff Responsibility

1.- 4. REPEALED

5. Check distribution will be as follows:

a. Provider checks will be issued directly to providers from the board office.

b. Victim/claimant checks will be mailed directly from the board office unless the sheriff specifies that he wishes to have them mailed directly to the sheriff's claim investigator for personal distribution.

D. 1.-3. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:

Chapter 5. Awards

§501. Payment of Awards

* * *

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), repromulgated LR 22:

§503. Limits on Awards

A.-B.3. ...

C. Funeral Expenses

* * *

2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid may be considered as a collateral source. If a claimant is the dependent or spouse of the victim, life insurance will not be considered a collateral offset.

3.-4.c. ...

D. Lost Wages/Earnings

1.-3.b. ...

4. The board may reimburse lost wages/earnings with a maximum of \$10,000.

4.a.-6. ...

7. If a victim does not return to work, the lost wage period may be no longer than one year.

8.-12. ...

E. Loss of Support

1.-2. ...

3. The board may reimburse loss of support with a maximum of \$10,000.

a.-b. ...

F. Ambulance

1.-2. ...

3. The medical portion of the ambulance bill is to be considered as a medical cost and paid at the medical per cent consistent with all other claims for that claimant.

* * *

M. Crime Scene Evidence

1. For the board to consider compensation of a loss resulting from expenses associated with the collection and securing of crime scene evidence, the following may apply:

a. The board is not responsible for the replacement of damaged or stolen property but only for those losses resulting from the collection and securing of crime scene evidence.

b. The loss claimed must be for an item or items listed as evidence seized in the law enforcement report, and

c. the item or items must be either not returned or returned in a condition which renders it unusable.

d. Proof of purchase or an estimate for replacement with a comparable item from a recognized merchant must be furnished.

e. Items may be limited to clothing and bedding.

2. A forensic medical examination for a victim of sexual assault will be considered an expense associated with the collection and securing of crime scene evidence. This expense will be reimbursed at 100 percent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:

Lamarr Davis
Chairman

9604#002

DECLARATION OF EMERGENCY

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

Facility Need Review—Nursing Facilities, Beds
(LAC 48:I.12503)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following emergency rule for facility need review as authorized by R.S. 40:2116 and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is effective April 9, 1996 and adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B). It shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The legislative appropriation for SFY 96 is insufficient to fund the Medicaid program at the 1995 level for the provision of nursing facility services. The amount budgeted for these services is \$481,689,655 while projected expenditures are \$527,096,886. The projected expenditures exceed the legislative appropriation, creating a projected deficit of about \$45 million. Therefore, program reductions are required to control expenditures in order to avoid a budget deficit in the medical assistance programs.

Data from *The Guide to the Nursing Home Industry*, 1995 by HCIA Inc. and Arthur Anderson LLP, indicates that sufficient nursing facility beds are available in Louisiana to serve the Medicaid population requiring this level of care.

Nationally, the occupancy rate for nursing homes is about 91 percent, while in Louisiana the occupancy rate is about 87 percent. For beds per 1,000 persons age 65+ the national average is about 54.6, while in Louisiana it is at least 77 beds.

Costs incurred for the care of each Medicaid beneficiary are factored into the reimbursement rate for nursing facilities when these rates are rebased. Costs of additional unoccupied beds, including but not limited to capital and maintenance costs, will be absorbed into and increase rates for Medicaid beneficiaries filling occupied beds. If more beds are enrolled than needed, expenditures will increase beyond the amount necessary for providing required nursing facility care to the Medicaid population.

In order to avoid a budget deficit in the medical assistance programs, the department repeals those facility need review regulations which provide for the approval of additional nursing facility beds to enroll in the Title XIX Program based on either a nursing facility specific exception for an area with high occupancy or the replacement of a nursing facility that is structurally older than 25 years.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12503. Determination of Bed Need

A.1.-6.d. ...

B. Nursing Facilities/Beds

1.-8. ...

9. In order for additional nursing facilities/beds to be added in a service area, the bed-to-population ratio for nursing facility beds shall not exceed 65 Medicaid approved beds per 1,000 elderly population in a service area, and average annual occupancy for the four most recent quarters as reported in the LTC-2 shall exceed 95 percent in the service area. An exception for areas with high occupancy is described below:

a. - a.vii. Repealed.

b. - b.xiii. ...

10.a. - 10.c. ...

11. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:808 (August 1995), amended LR 22:

Bobby P. Jindal
Secretary

9604#035

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Office of the Secretary

Bureau of Health Services Financing

**Institutional Services—Reimbursement for Leave of
Absence Days**

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

The Bureau of Health Services Financing provides coverage and reimbursement for services provided by intermediate care facilities for the handicapped and/or mentally retarded (ICF/MR) and nursing facilities which includes payment for leave of absence days for hospitalization and other leave days. Effective July 13, 1995 the department initiated through emergency rulemaking (*Louisiana Register*, Volume 21, Number 7) the reduction in the number of payable leave of absence days from these institutions. Absence for the treatment of an acute condition was reduced to five days for residents of both types of facilities and the other leave of absence days were reduced to four days for residents of nursing facilities and 22 days for residents of the ICF/MR facilities. Subsequently other leave of absence days were reinstated at the level existent prior to the July 1995 emergency rulemaking but the department has maintained the reduction to five days for absences due to the treatment of an acute condition. The following rule restates the existing policy regarding other leave of absence days. The following emergency rule also continues in force the reduction for hospital leave days and is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will result in a slight decrease in expenditures due to the continued reduction in reimbursable hospital leave days but more precise projection is not feasible at this time.

Emergency Rule

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for services provided by intermediate care facilities for the handicapped and/or mentally retarded and nursing facilities including leave of absence days. The number of reimbursable leave of absence days are as follows.

Beds are reserved for up to five days per hospitalization for treatment of an acute condition for the residents of intermediate care facilities for the handicapped and/or mentally retarded and nursing facilities.

Beds are reserved for up to nine days per calendar year for other leave of absences for residents of nursing facilities and for up to 45 days per state fiscal year for other leave of absences for the residents of intermediate care facilities for the

handicapped and/or mentally retarded with a 14-day limit per temporary absence per recipient. Leave days for the following purposes shall be limited to 14 days per occurrence and shall be excluded from the annual 45-day limitation: (1) Special Olympics; (2) Roadrunner sponsored events; (3) Louisiana planned conferences; and (4) trial discharge leaves.

Bobby P. Jindal
Secretary

9604#034

DECLARATION OF EMERGENCY

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

Pharmacy Program—Benefits Management System and
Point of Sale/Prospective Drug Utilization Review

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act Section 1927(g) and (h) and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law."

Section 1927(g) as added by Section 4401 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) provides that in order for states to receive federal financial participation for covered outpatient drugs, the state must have in operation a drug use review program. This Drug Utilization Review Program must consist of prospective drug review, retrospective drug use review, the application of explicit predetermined standards, and an educational program. The purpose of this program is to improve the quality of pharmaceutical care by ensuring that prescriptions are appropriate and medically necessary, and that they are not likely to result in adverse medical effects. This section of the act mandates detailed requirements for conducting drug use reviews and for the state drug utilization review boards.

The Department of Health and Hospitals, Board of Pharmacy adopted a rule on August 20, 1992 (*Louisiana Register*, Volume 19, Number 8) which incorporated these requirements under the Professional and Occupational Standards for pharmacists. Section 1927(h) also added by the Omnibus Budget Reconciliation Act of 1990 encourages states to establish a point-of-sale Electronic Claims Management (ECM) system for processing claims for covered outpatient

drugs which is capable of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims and assisting pharmacists and other authorized person in applying for and receiving payment. Regulations at Section 456.705(a) and (b)(1) require review of drug therapy based on predetermined standards at the point of sale before each prescription is filled or delivered to a recipient. The following emergency rule provides for the enhanced operation of the Drug Utilization Review Program and the Medicaid State Plan by including prospective drug review at the point of sale, an educational program, and implementation of the Point of Sale Electronic Claims Management. Adoption of this rule is necessary to assure compliance with Sections 1927(g) and (h) and the federal regulations contained at 42 CFR Part 456, Subpart K and thereby to avoid possible federal sanctions or penalties. It is also necessary to comply with the mandated legislative budgetary limitation for the Pharmacy Program for state fiscal year 1996 and thereby avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will contain the cost effectiveness in expenditures by approximately \$3,398,424 for state fiscal year 1996 and by approximately \$11,813,400 for state fiscal year 1997.

This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

This emergency rule integrates and enhances current efforts to provide optimal pharmaceutical services and to maintain program integrity.

Integration of the Pharmacy Program's existing components, retrospective drug utilization review, formulary management, claims management, patient education program, pharmacy provider network and provider service with the Medicaid pharmacy benefits management's new components of enhanced pharmacy network, pharmacy provider help desk, point-of-sale electronic claims management network, point of service prospective drug utilization review system and patient, physician and pharmacist education system will enhance the existing features to allow for greater capability to determine if appropriate pharmaceuticals are being utilized for optimal disease and outcomes management of the patient. The Department of Health and Hospitals has initiated an interdisciplinary medicine and pharmacy team to assist in the development of various educational and intervention components. The conversion of the current Drug Utilization Review Program into an enhanced on-line electronic prospective one will reduce costly duplicate drug therapy, prevent potential drug to drug interactions, assure appropriate drug use, dosage and duration of therapy. In addition, the electronic system will provide drug information and education to providers. This electronic system will enable the Medicaid Program to monitor prescribing patterns and recipient drug utilization patterns. Analyses of data derived from the point of sale/pro-DUR system will allow for timely interventions for those providers and/or recipients. The point of sale technology will integrate provider networks which will allow

for better management of disease state. An emergency rule was adopted on January 1, 1996 (*Louisiana Register*, Volume 21, Number 12) and the following emergency rule continues this initiative in force until adoption of the rule under the APA.

Emergency Rule

Effective April 30, 1996, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall implement the Louisiana Medicaid pharmacy benefits management system. The point of sale/prospective Drug Utilization Review system began full operations April 1, 1996. This system is administered with the Northeast Louisiana University, School of Pharmacy and the fiscal intermediary for the Bureau of Health Services Financing. The prospective DUR system will process information about the patient and the drug through eight therapeutic modules. The department reserves the right for ultimate decision making relative to certain therapeutic class information, contraindications or interactions. The point-of-sale prospective Drug Utilization Review will be administered in accordance with the standards of the National Council of Prescription Drug Plan.

I. Provider Participation

A. A point-of-sale enrollment amendment and certification is required prior to billing POS/Pro-DUR system as well as an annual recertification.

B. All Medicaid enrolled pharmacy providers will be required to participate in the Pharmacy Benefits Management System.

C. All Medicaid enrolled pharmacy providers whose claim volume exceeds 100 claims or \$4,000 per month and all providers enrolled on January 1, 1996 are required to participate in point of sale system. Long term care pharmacy provider claims may be processed through Electronic Media Claims (EMC).

D. Providers accessing the POS/Pro-DUR system will be responsible for the purchase of all hardware for connectivity to the switching companies and any fees associated with connectivity or transmission of information to the fiscal intermediary. The Bureau of Health Services Financing will not reimburse the provider for any on-going fees incurred by the provider to access the POS/Pro-DUR system.

E. Providers are required to verify eligibility with the monthly eligibility card and a copy of the card should be retained for processing the claim.

F. Pharmacy providers and physicians may obtain assistance with clinical questions from the Northeast Louisiana University, School of Pharmacy.

G. Physicians and pharmacy providers will be required to participate in the educational and intervention features of the Pharmacy Benefits Management System.

II. Recipient Participation

Pharmacy patients are encouraged to take an active role in the treatment or management of their health conditions through participation in patient counseling efforts with their physicians and pharmacists.

Interested persons may submit written comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health

Services Financing, Box 91030, Baton Rouge, LA 70821. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this rule is available at parish Medicaid offices for review by interested parties.

Bobby P. Jindal
Secretary

9604#036

DECLARATION OF EMERGENCY

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

**Pharmacy Program—Medicare Part B
Crossover Pharmacy Claims**

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

The Bureau of Health Services Financing reimburses enrolled Medicaid pharmacy providers for pharmacy services submitted on behalf of Medicaid recipients who have Medicare Part B coverage. These services are billed on a HCFA 1500 claim form. The Medicaid Program has identified drugs for which Medicare Part B is currently providing coverage and reimbursement. The bureau has determined that a cost savings will be achieved by requiring the pharmacist to bill Medicare first. Medicare claims for those Medicare covered outpatient drug services would then crossover to Medicaid reimbursement of the coinsurance up to the Medicare allowable and the deductible, if it has not been met. The bureau has determined that there is Medicaid cost-savings attributed by electing to pay co-insurance and the Medicare deductible for these pharmacy services. By cost avoiding these claims, Medicare will be the primary payor for these services and the bureau will be in compliance with Medicaid and Medicare regulations.

Emergency Rule

Effective April 8, 1996, the Bureau of Health Services Financing pays the full co-insurance and the Medicare deductible on the HCFA 1500 claims for drug services for Medicaid recipients covered by Medicare Part B.

Bobby P. Jindal
Secretary

9604#037

DECLARATION OF EMERGENCY

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

**Food Stamps—Resource Standards and Limits
(LAC 67:III.1947 and 1983)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Food Stamp Program, effective April 8, 1996. This rule shall remain in effect for a period of 120 days.

The Department of Social Services is responsible for administering the Food Stamp Program. Public Law 103-66, the Omnibus Budget Reconciliation Act of 1993, mandated revisions in certain programs including the Food Stamp Program. The food stamp provisions are referred to as the Mickey Leland Childhood Hunger Relief Act.

Pursuant to this legislation, changes were made in the resource eligibility standards as well as the income and deductions. These changes were to be effected in certain increments at pre-defined intervals. The initial changes were promulgated in accordance with APA guidelines in 1994. The next changes were to be implemented in October 1995; however, the agency misinterpreted the directives which were provided because of the federal budget deadlock. As a result, neither the changes in resource eligibility standards nor income and deduction were implemented, nor were they promulgated. Steps have since been taken to correct the oversight and assure correct benefit issuance to clients beginning with the October 1995 benefits. This emergency rulemaking is being promulgated in order to minimize the chance of possible federal fiscal sanctions or penalties. A notice of intent will be submitted within established guidelines to incorporate this emergency rule, as well as future requirements of P.L. 103-66.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1947. Resources

B. The fair market value of vehicles which is excluded in determining a household's resources is \$4600.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 22:

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

A. - 1. ...

2. The maximum shelter deduction is \$247 for households which do not include a member who is elderly or disabled.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 22:

Madlyn Bagneris
Secretary

9604#029

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Office of Fisheries**

**Commercial Fisherman's Sales Report Forms
(LAC 76:VII.203)**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 56:345(B) which allows the secretary to promulgate rules and regulations on the submission of Commercial Fisherman's Sales Report Forms to the department, LAC 76:VII.203.D, which establishes an implementation date of January 1, 1996, the secretary of the Department of Wildlife and Fisheries hereby finds that imminent peril to the public welfare exists and accordingly adopts the following emergency rule effective April 29, 1996, for 120 days or until promulgation of the final rule, whichever occurs first.

The full implementation date for the Commercial Fisherman's Sales Report Forms is January 1, 1998.

The secretary has amended the full implementation date of the Commercial Fisherman's Sales Report Forms to January 1, 1998 due to the lack of sufficient funding to initiate and maintain the program.

James H. Jenkins, Jr.
Secretary

9604#025

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Office of Fisheries**

Dealer Receipt Form (LAC 76:VII.201)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 56:303.7(B) and 306.4(E) which allows the secretary to

promulgate rules and regulations on the submission of Dealer Receipt Forms to the department; LAC 76:VII.201.F which establishes an implementation date of January 1, 1996; the secretary of the Department of Wildlife and Fisheries hereby finds that imminent peril to the public welfare exists and accordingly adopts the following emergency rule effective April 29, 1996, for 120 days or until promulgation of the final rule, whichever occurs first.

The full implementation date for the Dealer Receipt Forms is January 1, 1998.

The secretary has amended the full implementation date of the Dealer Receipt Forms to January 1, 1998 due to the lack of sufficient funding to initiate and maintain the program.

James H. Jenkins, Jr.
Secretary

9604#024

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Southern Flounder Commercial Harvest Closure

In accordance with the emergency provisions of R.S. 49:953(B) the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:325.4 which provides that the secretary of the department must declare a closed season when it is determined that the spawning potential ratio of southern flounder (*Paralichthys lethostigma*) is below 30 percent, and R.S. 56:317, which allows the secretary to close a fishing season or restrict fishing in the closed season in any manner deemed advisable, upon securing evidence that the fish in state waters have been depleted through overfishing or that fishing is detrimental to the interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective 12:01 a.m., May 1, 1996, the commercial harvest of southern flounder (*Paralichthys lethostigma*) in Louisiana waters will close and remain closed until 12:01 a.m., May 1, 1997.

Effective with the closure, no vessel possessing any commercial fishing gear including, but not limited to, any pompano strike net, shall have southern flounder (*Paralichthys lethostigma*) aboard the vessel, whether caught within or without the territorial waters of the state.

Effective with the closure, the sale, barter, or exchange of, and the commercial possession of southern flounder (*Paralichthys lethostigma*) shall be prohibited.

Act 1316 of the 1995 Louisiana Regular Legislative Session, the Louisiana Marine Resources Conservation Act of

1995, enacts §325.4 of Title 56, L.R.S, providing that the Wildlife and Fisheries Commission shall make an annual peer reviewed and evaluated report to the Legislature no later than March 1 containing the following information on southern flounder (*Paralichthys lethostigma*):

(a) the spawning potential ratio (SPR);

(b) a biological condition and profile of the species and stock assessment.

The Act also provides that if the SPR is below 30 percent, the department shall close the season within two weeks for the period of at least one year.

The department has reviewed the information on the SPR of southern flounder (*Paralichthys lethostigma*), and has determined that the SPR is probably between 16 percent and 44 percent. The most conservative of these estimates is below the 30 percent criterion established by the Legislature. The secretary has determined that a limited closure of the commercial harvest of flounder using pompano strike nets would be ineffective and unenforceable. The secretary therefore has determined that it is in the best interest of the state and most appropriate that the commercial season for southern flounder (*Paralichthys lethostigma*) in Louisiana waters be completely closed, and remain closed for one year. In order to simplify temporal changes in regulations for fishermen, the closure is placed as May 1, 1996 until May 1, 1997.

James H. Jenkins, Jr.
Secretary

9604#005

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Red Snapper Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317 which provides that the secretary of the department may declare a closed season when it is in the best interest of the state, the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective midnight April 11, 1996, the commercial fishery for red snapper in Louisiana waters will close until 12:01 a.m., September 15, 1996. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with the closure, no person shall possess red snapper in excess of a daily bag limit. Nothing shall prohibit the possession or sale

of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

The secretary has been notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service that the gulfwide commercial red snapper quota has been reached, and the season closure is necessary to prevent overfishing of this species.

James H. Jenkins, Jr.
Secretary

9604#012

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 746—Foreign Language Teacher Certification

In accordance with R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted changes to the certification requirements for foreign language and elementary foreign language. The revised certification requirements which are amendments to Bulletin 746, Louisiana Standards for State Certification of School Personnel are printed below.

This policy change eliminates the requirement of an oral proficiency interview for elementary teachers to become certified to teach a foreign language. In addition, it deletes the option of the use of the oral proficiency interview as partial fulfillment of certification requirements for secondary foreign language teachers.

Certification Options in Elementary Education

* * *

Foreign Language

Elementary teachers may be certified to teach a foreign language upon completion of 15 semester hours in the language.

* * *

Foreign Language

Certification is awarded in each individual language. Secondary foreign language certification may be converted to all-level certification (1-12) with an additional nine hours of professional education courses at the elementary level.

1. All Foreign Languages (except Latin)

A minimum of 24 semester hours in a language or eight semester hours if taken above the first-year college level.

Beginning with freshmen entering higher education institutions in the 1984-85 school year, all candidates for certification will be required to complete 36 semester hours or 24 hours above the sophomore level which shall include a

three-hour methods course in modern foreign languages. A minimum of 12 of the 24 hours may be fulfilled by a two-semester residence in a university abroad or by two summers of intensive immersion study on a Louisiana university campus, an out-of-state university campus, or abroad.*

*The two semesters abroad or its alternative is required for French certification and is optional for all other foreign languages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:277 (April 1996).

Carole Wallin
Executive Director

9604#026

RULE

Board of Elementary and Secondary Education

Bulletin 1943—Teacher Assessment Policies and Procedures

In accordance with R.S. 49:950, et. seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 1943, Policies and Procedures for the Louisiana Teacher Assessment, Section VII: Compensation, as stated below.

Section VII: Compensation

After the first paragraph, add the following: "Only retired educators, college faculty, and experienced teacher assessors shall receive compensation for their assessment activities."

AUTHORITY NOTE: Promulgated in accordance with Act 1 of the 1994 Third Extraordinary Session of the Louisiana Legislature

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:277 (August 1996).

Carole Wallin
Executive Director

9604#023

RULE

Board of Elementary and Secondary Education

Medication Policy (LAC 28:I.929)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the State Board of Elementary and Secondary Education has amended the Administration of Medication Policy developed by the State Board of Elementary and Secondary Education and the State Board of Nursing. This amendment to the Administrative Code is printed below:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations and State Plans
§929. Administration of Medication Policy**

* * *

B. Written Orders, Appropriate Containers, Labels, and Information

1. Medication shall not be administered to any student without an order from a Louisiana, or adjacent state, licensed physician or dentist and it shall include the following information:

* * *

E. Teacher. The classroom teacher who is not otherwise previously contractually required shall not be assigned to administer medications to students. A teacher may request in writing to volunteer to administer medications to his/her own students. The administration of medications shall not be a condition of employment of teachers employed subsequent to July 1, 1994. A regular education teacher who is assigned an exceptional child shall not be required to administer medications.

* * *

AUTHORITY NOTE: Promulgated in accordance with Act 87 of R. S. 1993 (R.S. 17:436.1).

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:278 (April 1996).

Carole Wallin
Executive Director

9604#022

RULE

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

**Ambient Air Standards—Carbonyl Sulfide
(LAC 33:III.5112)(AQ133)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.5112 (AQ133).

The ambient air standard for carbonyl sulfide is changed to 582 ug/m³ in Table 51.2, LAC 33:III.5112.

The ambient air standard for carbonyl sulfide (COS) in Table 51.2 of LAC 33:III.5112 was incorrectly listed at 24.30 ug/m³. There was and still is a general lack of toxicity data for this compound. The standard for carbonyl sulfide is based on the toxicity of hydrogen sulfide since COS metabolizes to H₂S in the body. More current toxicity data caused a revision of the H₂S standard upward and should have caused a likewise revision in the COS standard.

**Title 33
ENVIRONMENTAL QUALITY**

**Part III. Air
Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program
Subchapter A. Applicability, Definitions, and General
Provisions**

§5112. Tables

* * *

[See Prior Text in Table 51.1]

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards				
Compounds	CAS No.	Class	Ambient Air Standard	
			($\mu\text{g}/\text{m}^3$) (8 Hour Avg.)	($\mu\text{g}/\text{m}^3$) (Annual Avg.)
* * * [See Prior Text in Acetaldehyde-Carbon Tetrachloride]				
Carbonyl Sulfide	463-58-1	III	582.00	
* * * [See Prior Text in Chlorinated Dibenzo-p-dioxins [2]-Table 51.3 Explanatory Note [4]]				

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and 2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1330 (December 1995), amended LR 22:278 (April 1996).

Gus Von Bodungen, P.E.
Assistant Secretary

9604#041

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Solid Waste Division**

**Ditches and Air Curtains
(LAC 33:VII.Chapters 1, 3, and 7) (SW018)**

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 Solid Waste Division regulations, LAC 33:VII.Chapters 1, 3, and 7 (SW018).

The rule modifies the definitions of "ditch" and "woodwaste," exempts some ditches from the requirements of solid waste permitting, extends the compliance dates for solid waste facility upgrades and financial assurance, and provides regulations for portable air curtain destructors as required by R.S. 30:2154(D).

Title 33
ENVIRONMENTAL QUALITY

Part VII. Solid Waste
Subpart 1. Solid Waste

Chapter 1. General Provisions and Definitions

§115. Definitions

For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

[See Prior Text]

Ditch—an earthen trench or excavation principally used to convey wastewaters without regard to whether solids settling or treatment of wastewater occurs therein.

* * *

[See Prior Text]

Type III Facility—a facility used for disposing or processing of construction/demolition debris or woodwaste, composting organic waste to produce a usable material, or separating recyclable wastes (a separation facility). Residential, commercial, or industrial solid waste must not be disposed of in a Type III facility.

* * *

[See Prior Text]

Woodwaste—yard trash and types of waste typically generated by sawmills, plywood mills, and woodyards associated with the lumber and paper industry, such as wood residue, cutoffs, wood chips, sawdust, wood shavings, bark, wood refuse, wood-fired boiler ash, and plywood or other bonded materials that contain only phenolic-based glues or other glues that are approved specifically by the administrative authority. Treated or painted lumber is not considered woodwaste under this definition.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996).

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Wastes Governed by These Regulations

All solid wastes as defined by the act and these regulations are subject to the provisions of these regulations, except as follows:

* * *

[See Prior Text in A-B.4.b]

c. solids or sludges in ditches are exempt from the definition of solid waste until such time as such solids or sludges are removed from the ditches for disposal, provided however, that this exclusion from the definition of solid waste only applies to solids and sludges derived from wastewaters described in Subsection B.4.a and b of this Section.

* * *

[See Prior Text in B.4.d-6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996).

§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of these Regulations

The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

* * *

[See Prior Text in A-I.6]

J. ditches that receive nonroutine spillage (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include ditches for solid waste disposal units such as landfills, landfarms, or surface impoundments.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996).

§315. Mandatory Provisions

All persons conducting activities regulated under these regulations shall comply with the following provisions:

* * *

[See Prior Text in A-G.1.a]

b. Existing Type I landfills and Type I landfarms shall be upgraded in accordance with these regulations no later than December 31, 1997.

2. Existing Type II Landfills

a. Permit holders of existing Type II landfills operating under a standard permit must submit to the Solid Waste Division, no later than August 1, 1994, a mandatory modification document to address these regulations.

b. Except as provided in Subsection G.2.c of this Section, existing Type II landfills shall be upgraded in accordance with these regulations no later than December 31, 1997.

* * *

[See Prior Text in G.2.c-3.a]

b. Existing Type I, Type I-A, Type II, and Type II-A facilities shall be upgraded in accordance with these regulations no later than December 31, 1997.

4. Financial Assurance. Existing Type I facilities that are owned or operated by local governments must comply with the financial assurance requirements in LAC 33:VII.727 no later than August 1, 1996. Existing Type II only or Type III facilities that are owned or operated by local governments must comply with the financial assurance requirements in LAC 33:VII.727 no later than April 9, 1997. All other facilities must comply by February 20, 1995.

5. Units of existing Type II landfills which are not upgraded in accordance with these regulations must cease accepting waste and complete closure on or before December 31, 1997.

* * *

[See Prior Text in G.6-R.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996).

Chapter 7. Solid Waste Standards

Subchapter D. Minor Processing and Disposal Facilities

§725. Separation and Woodwaste Processing Facilities (Type III)

* * *

[See Prior Text in A-B.1.a.vi]

vii. The annual report for portable air curtain destructors shall identify the site and quantity of solid waste processed at each individual site.

* * *

[See Prior Text in B.1.b-D.2.a]

b. All remaining waste shall be removed to a permitted facility for disposal or properly disposed of on-site as provided for in LAC 33:VII.305.H.

* * *

[See Prior Text in D.2.c-3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996).

H.M. "Mike" Strong
Assistant Secretary

9604#042

RULE

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

Procurement Code-Conduct of Hearing (LAC 34:I.3105)

The Division of Administration, Office of State Purchasing, in accordance with the provisions of R.S. 49:950 et seq. and R.S. 39:1581, amended LAC 34:I.3105 so that the said rule will be in conformity with R.S. 39:1671.

Title 34

**GOVERNMENT CONTRACTS,
PROCUREMENT AND PROPERTY CONTROL**

Part I. Purchasing

**Chapter 31. Conduct of Hearing - Louisiana
Procurement Code**

§3105. Initiation of Hearing

A. ...

B. Protest of Aggrieved Person in Connection with the Solicitation, Award, or Issuance of Written Notice of Intent to Award. Any person who is aggrieved in connection with the solicitation, award, or issuance of written notice of intent to award may protest to the chief procurement officer. Protests with respect to a solicitation shall be submitted in writing

prior to the opening of bids. Protests with respect to the award of a contract or the issuance of written notice of intent to award a contract shall be submitted in writing within 14 days after contract award.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, State Purchasing, LR 9:210 (April 1983), amended LR 22:280 (April 1996).

Denise Lea
Director

9604#015

RULE WITHDRAWAL

**Department of Health and Hospitals
Board of Medical Examiners**

Physicians and Surgeons—Licensing
(LAC 46:XLV.301-431)

The Board of Medical Examiners hereby gives notice that its rule amendments governing physician and surgeon licensure, appearing at LR 22:207-214 (March 1996) were published prematurely and are hereby withdrawn.

Delmar Rorison
Executive Director

9604#001

RULE

**Department of Health and Hospitals
Board of Nursing**

Registered Nurses Advanced Practice
(LAC 46:XLVII.Chapters 37 and 45)

Notice is hereby given that the Board of Nursing, pursuant to the authority vested in the board by R.S. 37:918(12), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has promulgated LAC 46:XLVII.4501-4517 and has repealed LAC 46:XLVII.3705-3713 to standardize the titles and requirements for licensure in Louisiana of the Advanced Practice Registered Nurses and in turn to impose the necessary fees to provide these services.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 37. Nursing Practice

§3705. Advanced Practitioner of Nursing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:72 (March 1981), repealed by Department of Health and Hospitals, Board of Nursing, LR 22:280 (April 1996).

§3707. Primary Nurse Associate

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:72 (March 1981), repealed by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996).

§3709. Certified Nurse-Midwife

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:72 (March 1981), repealed by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996).

§3711. Certified Registered Nurse Anesthetist

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:72 (March 1981), repealed by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996)

§3713. Certified Registered Nurse Anesthetist

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:72 (March 1981), repealed by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996).

Chapter 45. Advanced Practice Registered Nurses

§4501. Introduction

A. Louisiana Revised Statutes of 1950, as amended, specifically R.S. 37:911 et seq., delegated to the Louisiana State Board of Nursing the responsibility to authorize additional acts to be performed by registered nurses practicing in expanded roles and gave the board of nursing the power to set standards for nurses practicing in specialized roles. From 1981 to 1995, the board has recognized advanced practitioners of nursing as certified nurse-midwives, certified registered nurse anesthetists, clinical nurse specialists, and primary nurse associates.

B. In 1995, the Louisiana Legislature amended R.S. 37:911 et seq., empowering the board of nursing to use the term advanced practice registered nurse (APRN) to license a registered nurse with advanced education as provided in R.S. 37:913.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996).

§4503. Titles

A nurse licensed as an APRN shall include, but not be limited to, the following categories:

1. certified nurse midwife as defined in the R.S. 37:913(1)(a);

2. certified registered nurse anesthetist as defined in the R.S. 37:913(1)(b);

3. clinical nurse specialist as defined in the R.S. 37:913(1)(c);

4. nurse practitioner as defined in the R.S. 37:913(1)(d).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996).

§4505. Definitions (Reserved)

§4507. Licensure as Advanced Practice Registered Nurse

A. Initial Licensure

1. After January 1, 1996, the applicant shall meet the following requirements:

a. holds a current, unencumbered, unrestricted and valid registered nurse license in Louisiana and there are no grounds for disciplinary proceedings, as stated in R.S. 37:921;

b. completion of a minimum of a master's degree with a concentration in the respective advanced practice nursing specialty from an accredited college or university. Exception to the master's degree will be granted to those applicants who provide documentation as requested by the board that the applicant completed or was continuously enrolled in a formalized post-basic-education program preparing for the advanced practice nursing specialty as approved by the board prior to December 31, 1995 as follows:

i. a program of studies offered through an institution of higher education which qualifies a graduate for a certification examination in the advanced practice specialty; or

ii. a program of studies accepted by a nationally recognized certifying body which is recognized by the Louisiana State Board of Nursing; or

iii. a program which is individually recognized by the Board of Nursing based on established criteria;

c. submission of a completed application on a form furnished by the board;

d. submission of evidence of national certification by a certification program approved by the board. When specialty certification is not available, the individual will be required to meet commensurate requirements established by the board;

e. submission of a nonrefundable fee as specified in LAC 46:XLVII.3361.

2. Act 633 of 1995 empowers the board to license as an advanced practice registered nurse any nurse who was previously recognized by the board as an advanced practitioner of nursing on or before December 31, 1995. Requirements for such licensure, effective January 1, 1996, shall include:

a. holds a current, unencumbered, unrestricted and valid registered nurse license in Louisiana and there are no grounds for disciplinary proceedings, as stated in R.S. 37:921;

b. a completed application on a form furnished by the board;

c. the required nonrefundable fee as set forth in LAC 46:XLVII.3361;

d. prior to January 1, 1996, have been recognized by the board as an advanced practitioner of nursing.

3. If more than four years have elapsed since the applicant has practiced in the advanced practice registered nurse category, in addition to meeting the above requirements, the applicant shall:

- a. apply for a six-month permit;
- b. practice under the temporary permit and current practice standards set forth by the specific advanced practice category;
- c. successfully complete the number of clinical practice hours as required by the recognized national certification boards for clinical practice, supervised by an advanced practice registered nurse preceptor approved by the board;
- d. cause to have submitted a final evaluation by the preceptor verifying successful completion of the clinical practice requirements;
- e. have a minimum of 500 hours of clinical practice when specialty certification is not available.

4. An APRN license shall be issued with an expiration date that coincides with the applicant's RN license.

B. Licensure by Endorsement. The board may issue a license by endorsement if the applicant has practiced under the laws of another state and if, in the opinion of the board, the applicant meets the requirements for licensure as an APRN in this jurisdiction.

1. If the applicant is applying from another jurisdiction that licenses the category of APRN for which the applicant is seeking licensure, the applicant shall submit:

- a. a completed application on a form furnished by the board;
- b. the required nonrefundable fee as set forth in LAC 46:XLVII.3361;
- c. verification of current RN licensure in this jurisdiction or documentation that the applicant has applied for licensure as a RN and meets the requirements of this jurisdiction, and there are no grounds for disciplinary proceedings as stated in R.S. 37:921;
- d. verification of licensure status directly from the jurisdiction of original licensure in the advanced practice category;
- e. verification of current unencumbered license in the advanced practice category directly from the jurisdiction of current or most recent employment as an APRN;
- f. verification of educational requirements as stated in LAC 46:XLVII.4507.A.1.b;
- g. verification of current national certification in the respective specialty area as recognized by the board;
- h. documentation of meeting the requirements in LAC 46:XLVII.4515.

2. If the applicant is applying from a jurisdiction that does not license the APRN category for which the applicant is seeking licensure, the applicant shall submit 1.a, b, c, f, g and h as stated above, plus:

- a. information regarding the applicant's qualifications for advanced practice directly from the state where the applicant first practiced in the APRN category.
 - b. information regarding the applicant's qualifications for advanced practice directly from the board in the state where the applicant was last employed in the APRN category.
- C. Temporary Permit: Initial Applicants

1. An APRN applicant who possesses a current RN license or a valid RN temporary permit, and has submitted a complete application, the required fee, and evidence of meeting all educational requirements, may be granted a temporary permit which allows for the applicant's practice to be supervised by a licensed APRN or another approved preceptor within the practice specialty if the applicant:

- a. is applying for initial licensure under LAC 46:XLVII.4507.A;
- b. has completed or is completing practice requirements for national professional certification for the advanced nursing practice category;
- c. has been accepted as a first-time candidate or is meeting the practice eligibility requirements for the national professional certification examination for the advanced nursing practice category as recognized by the board; or is awaiting certification results based upon initial application; and
- d. there are no grounds for disciplinary proceedings as stated in R.S. 37:921.

2. A nurse practicing under the temporary permit shall use the title advanced practice registered nurse applicant or APRN applicant.

3. The temporary permit shall expire upon receipt of initial certification examination results. A temporary permit is not renewable and is only awarded once.

4. Falsifying any records will lead to automatic suspension of license to practice as a registered nurse or disciplinary proceedings against the licensee in accordance with R.S. 37:921 and LAC 46:XLVII.3329.

D. Temporary Permit: Endorsement Applicants

1. An APRN who has filed an application for RN licensure by endorsement, and has been issued a RN temporary permit, may be issued a temporary permit to practice as an APRN, for a maximum of 90 days, if the applicant submits:

- a. a completed APRN application on a form furnished by the board;
- b. the required nonrefundable fee as set forth in LAC 46:XLVII.3361;
- c. evidence of meeting the educational and certification requirements specified in LAC 46:XLVII.4507.A.1.b;
- d. evidence of meeting the requirements of LAC 46:XLVII.4515.

2. If the RN license is issued before the applicant receives the results of initial certification examination the APRN temporary permit may be extended until receipt of initial certification results.

E. Renewal and Reinstatement of Licenses

1. Renewal. The date for renewal of licensure to practice as an APRN shall coincide with renewal of the applicant's RN license. Renewal of the APRN license is contingent upon renewal of the RN license and verification that there are no grounds for disciplinary proceedings as stated in R.S. 37:921. An applicant for renewal of an APRN license shall submit to the board:

- a. a completed application on a form furnished by the board;

b. evidence of current certification/recertification, unless the APRN has been licensed by the board in accordance with R.S. 37:912(3)(4);

c. evidence of meeting the requirements in LAC 46:XLVII.4515;

d. the licensure renewal fee as specified in LAC 46:XLVII.3361.

2. Reinstatement of APRN Lapsed License. An APRN who has failed to renew licensure may apply for reinstatement by submitting to the board:

a. evidence of current RN licensure;

b. a completed application on a form furnished by the board;

c. evidence of current certification/recertification by a nationally recognized certifying body;

d. evidence of competence to return to practice as required in LAC 46:XLVII.4515;

e. the required fee as specified in LAC 46:XLVII.3361.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996).

§4509. Educational Requirements (Reserved)

§4511. Advanced Practice Registered Nurse Professional Certification Programs

A national certifying body which meets the following criteria shall be recognized by the board as mandated by R.S. 37:913(2):

1. credentials nationally;

2. does not require an applicant to be a member of any organization or entity;

3. documents the criteria for applicant eligibility to take an examination for certification and recertification;

4. requires a master's degree as the minimal educational level for certification or otherwise approved by the board;

5. utilizes an application process and credential review which includes documentation that the applicant's didactic education has concentrated in the advanced nursing practice category being certified, and that the applicant's clinical practice is in specialty area of certification;

6. uses an examination as a basis for certification in the advanced nursing practice category which meets the following criteria:

a. the examination is based upon job analysis studies conducted using standard methodologies acceptable to the testing community;

b. the examination represents entry-level practice based on standards in the advanced nursing practice category;

c. the examination represents the knowledge, skills (critical thinking and technical), and role functions essential for the delivery of safe and effective advanced nursing care to the client;

d. the examination content and its distribution are specified in a test plan, based on the job analysis study, that is available to examinees;

e. examination items are reviewed for content validity, cultural sensitivity, and correct scoring using an established mechanism, both before use and periodically;

f. examinations are evaluated for psychometric performance;

g. the passing standard is established using acceptable psychometric methods, and is re-evaluated periodically;

h. examination security is maintained through established procedures.

7. issues certification based upon passing the examination and meeting all other certification requirements;

8. provides for periodic recertification which includes review of qualifications and indicators of continued competence, including but not limited to continuing education or examination;

9. has mechanisms in place for communication to boards of nursing for timely verification of an individual's certification status, changes in certification status, and changes in the certification program, including qualifications, test plan, and scope of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996).

§4513. Authorized Practice

A. Scope of Practice. An advanced practice registered nurse shall practice as set forth in R.S. 37:913(3)(a) and the standards set forth in these administrative rules. The patient services provided by an APRN shall be in accord with the educational preparation of that APRN.

B. Standards of Nursing Practice for the Advanced Practice Registered Nurse. Standards of practice are essential for safe practice by the APRN and shall be in accordance with the published professional standards for each recognized category. The core standards for all categories of advanced practice registered nurses include, but are not limited to:

1. an APRN shall meet the standards of practice for registered nurses as defined in LAC 46:XLVII.3901-3913;

2. an APRN shall assess patients at an advanced level, identify abnormal conditions, analyze and synthesize data to establish a diagnosis, develop and implement treatment plans, and evaluate patient outcomes;

3. the APRN shall use advanced knowledge and skills in providing patients and health team members with guidance and teaching;

4. an APRN shall use critical thinking and independent decision-making at an advanced level, commensurate with the autonomy, authority, and responsibility of the practice category while working with patients and their families in meeting health care needs;

5. when collaborating with other health care providers, an APRN shall demonstrate knowledge of the statutes and rules governing advanced registered nursing practice, and function within the legal boundaries of the appropriate advanced registered nursing practice category;

6. an APRN shall demonstrate knowledge of and apply current nursing research findings relevant to the advanced nursing practice category;

7. an APRN shall make decisions to solve patient care problems and select treatment regimens in collaboration with a licensed physician or dentist;

8. an APRN shall retain professional accountability for advanced practice nursing care when delegating nursing actions or interventions.

C. Prescriptive and Distributing Authority. An advanced practice registered nurse shall practice in a manner consistent with the definition as set forth in R.S. 37:913(3)(b) and with the provisions of R.S. 37:1031-1034.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996).

§4515. Continued Competence of Advanced Practice Registered Nurses

Continued competence requirements shall apply to:

1. a licensee seeking to renew an APRN license, as required in LAC 46:XLVII.4507.E.1;
2. a licensee seeking to reinstate an APRN license, as required in LAC 46:XLVII.4507.E.2;
3. an applicant for APRN licensure by endorsement, as required in LAC 46:XLVII.4507.B;
4. an applicant for APRN licensure after four years out of practice, as required in LAC 46:XLVII.4507.A.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996).

§4517. Additional Standards For Each Advanced Practice Nurse Category

A. Nurse Practitioner. In addition to the core standards described in LAC 46:XLVII.4513.B, an APRN in the category of nurse practitioner and area of the nursing specialty shall practice in the area of specialty in accord with standards established by a national professional nursing association and which have been reviewed and approved by the board.

B. Certified Registered Nurse Anesthetist. In addition to the core standards described in LAC 46:XLVII.4513.B, an APRN in the category of certified registered nurse anesthetist shall practice in accord with standards established by a national professional nursing association and which have been reviewed and approved by the board.

C. Certified Nurse-Midwife. In addition to the core standards described in LAC 46:XLVII.4513.B, an APRN in the category of certified nurse-midwife shall practice in accord with standards established by a national professional nursing association and which have been reviewed and approved by the board.

D. Clinical Nurse Specialist. In addition to the core standards described in LAC 46:XLVII.4513.B, APRN in the category of clinical nurse specialist and area of the nursing specialty shall practice in the area of specialty in accord with standards established by a national professional nursing association and which have been reviewed and approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996).

Barbara L. Morvant
Executive Director

9604#027

RULE

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

Qualifications for Licensure (LAC 46:LIV.107 and 115)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Physical Therapy Examiners (Board), pursuant to the authority vested in the board by R.S. 2401.2A(3), has amended rules relative to the practice of physical therapy.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LIV. Louisiana State Board of Physical Therapy
Examiners**

Subpart 1. Licensing and Certification

**Chapter 1. Physical Therapists and Physical Therapist
Assistants**

**Subchapter B. Graduates of American Physical
Therapy Schools and Colleges**

§107. Qualifications for License

A. - B.3. . . .

4. possess a minimum of a Bachelor's of Science degree in Physical Therapy duly issued and conferred by a physical therapy school or program accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE); and
5. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A) 3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 22:284 (April 1996).

§115. Qualifications for License

A. To be eligible for a license as a physical therapist, a foreign graduate applicant shall:

1. possess all of the substantive qualifications for license specified by §107 of this Chapter, except for §107.A.4;
2. have successfully completed didactic and clinical courses in physical therapy which are equivalent in level and purpose to a Bachelor's of Science degree in physical therapy awarded by an accredited college or university in the United States as determined by the evaluation of the applicant's transcript by a board approved evaluation service;
3. have completed at least six months (with a minimum of 1,000 patient care hours) of postgraduate clinical practice in Louisiana under the direction and supervision of the physical therapist authorized by the board. In order for a period of supervised clinical practice to count toward the 1,000 hours, the permittee must comply with the following:
 - a. supervised clinical practice must be with an approved supervisor and valid permit;
 - b. supervised clinical practice must be for at least three months in any one facility; and

c. supervised clinical practice must be documented by having the supervisor complete, in its entirety, the clinical evaluation form developed and distributed by the board.

4. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A) 3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 22:284 (April 1996).

Sharon Toups
Chairman

9604#016

RULE

Department of Health and Hospitals Office of the Secretary

Informed Consent—Urology (LAC 48:I.2449)

(Editor's Note: The following rule, appearing on pages 31-32 of the January, 1996 Louisiana Register is being republished to correct a typographical error.)

Title 48

PUBLIC HEALTH

Part I. General Administration

Chapter 23. Informed Consent

§2449. Urology

NOTE: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

A. - P.6. . . .

Q. Orchiopexy (surgically placing an undescended testicle into the scrotum)

1. - 5. . . .

6. infection with possible loss of testicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 22:31 (January 1996), repromulgated LR 22:285 (April 1996).

Bobby P. Jindal
Secretary

9604#038

RULE

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

Emergency Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted

the following rule under the Medical Assistance Program as authorized by R.S. 46:46:153 and pursuant Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Bureau of Health Service Financing requires that all Advanced Life Support (ALS) and Basic Life Support (BLS) ambulance services must be certified by the Department of Health and Hospitals, Bureau of Health Services Financing in order to receive Medicaid reimbursement and all ALS or BLS services must be provided in accordance with the state law and regulations governing the administration of these services. All (ALS) and (BLS) ambulance services must comply with the state law and regulations governing the personnel certifications of the emergency medical technicians administered by the Department of Health and Hospital's Bureau of Emergency Medical Services. The department will ensure through post pay review that all services are medically appropriate for the level of care billed and have been provided in accordance with the ALS or BLS certification level of the ambulance service.

Bobby P. Jindal
Secretary

9406#040

RULE

Department of Labor Office of Workers' Compensation

Compliance Penalty (LAC 40:I.109)

(Editor's Note: The following rule, published on page 221 of the March, 1996 Louisiana Register, is being repromulgated to correct a typographical error.)

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 1. General Provisions

§109. Compliance Penalty

A. Unless otherwise provided for in the rules of the Office of Workers' Compensation, a person or entity that fails to comply with any rule or regulation adopted under the provisions of the Workers' Compensation Act may be penalized with a fine not to exceed \$500.

B. Penalties may be imposed pursuant to this rule after an investigatory hearing before the director or his designee.

C. A person or entity may appeal any penalty imposed pursuant to this rule by filing a Disputed Claim Form, LDOL-WC-1008, in the district where the person or entity is located or in Baton Rouge, Louisiana. All such appeals shall be de novo. Any penalty imposed pursuant to this rule becomes final and may be pursued for collection unless such an appeal is filed within 30 days of the notice of the penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291(B)(13).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:775 (August 1985), repealed and repromulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:357 (April 1991), amended by the Department of Labor, Office of Workers' Compensation, LR 22:221 (March 1996), repromulgated LR 22:285 (April 1996).

O. Larry Wilson
Director

9603#014

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Commercial Driving Schools (LAC 55:III.Chapter 1)

The Department of Public Safety and Corrections, Office of Motor Vehicles, in accordance with R.S. 49:950 et seq., and R.S. 32:402.1, adopts rules and regulations pertaining to the operating standards of commercial driving schools (LAC 55:III.Chapter 1).

Copies of the full text of these proposed rules and regulations may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge LA 70804.

Thomas H. Normile
Undersecretary

9604#018

RULE

Department of Social Services Office of Family Support

Food Stamp Verification of Eligibility—Waiver (LAC 67:III.1931)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part I, Subpart 3, Food Stamps.

Pursuant to United States Department of Agriculture, Food and Consumer Service Waiver #950082, the agency had been given approval to waive Federal Regulation 7 CFR 273.2 (h)(2) which requires that the state agency deny an application for food stamps on the thirtieth day when the household has failed to submit required verification. Food Stamp Program policy has been revised to allow the agency under certain circumstances to deny an application after a period of 10 days from the date of the request for verification. This action allows for more consistent and efficient administration of the program as the 10-day period corresponds to the verification period for Aid to Families with Dependent Children.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter B. Application Processing

S1931. Verification of Eligibility

* * *

C. The agency will require verification of necessary information within 10 days. Failure to provide such verification may result in rejection of the application unless the household has requested additional time in which to obtain the verification or assistance in obtaining the verification.

If the case is closed due to failure to submit required verification and the verification is subsequently provided within the initial 30-day period, the application will be reactivated retroactively to the date of application. If the verification is provided in the second 30-day period, the application will be reactivated and benefits will be prorated from the date the missing verification is provided.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:3194 et seq., 7 CFR 273.2, 7 CFR 273.3.c.(1)(ii).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 7:265 (May 1981), amended by the Department of Social Services, Office of Family Support, LR 22:286 (April 1996).

Madlyn B. Bagneris
Secretary

9604#028

RULE

Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors

Temporary Permits (LAC 46:LXI.309)

In accordance with R.S. 49:950 et seq., notice is hereby given that the Board of Registration for Professional Engineers and Land Surveyors has amended LAC 46:LXI.309 as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Chapter 3. Requirements for Certification and Registration of Individuals and Temporary Permit to Practice Engineering (Reference Chapter 11. Curricula, Chapter 13. Experience, and Chapter 15. Examinations)

§309. Temporary Permit to Practice Engineering

A. A person who is not a resident of, and has no place of business in Louisiana may be granted a written temporary permit to practice professional engineering when such practice does not exceed 120 consecutive days in any calendar year, provided such person is legally qualified by registration to practice engineering in his/her own state, territory, or

possession of the United States, or the District of Columbia, in which the requirements and the qualifications for obtaining a certificate of registration are not lower than those specified in this Chapter and provided further that before beginning such temporary practice in this state, the person shall have applied to the board, paid the prescribed fee, and received a temporary permit, and upon the conclusion of such work, he/she shall advise the board as to the period of time that he/she has practiced in the state under such temporary permit.

B. The authority for the executive secretary to issue a temporary permit can only be granted by the board at a regular meeting. Such a permit will be issued for a period of 120 consecutive days. The fee for a temporary permit shall be equal to the fee paid by an applicant applying for registration as a professional engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:112 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:286 (April 1996).

Paul L. Landry, P.E.
Executive Secretary

9604#004

RULE

Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors

Use of Seals (LAC 46:LXI.1701)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Registration for Professional Engineers and Land Surveyors has amended LAC 46:LXI.Chapter 17 as follows.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Chapter 17. Use of Seals §1701. Seal and Signature

A. ...

B. The registrant shall affix his seal, sign his name, and place the date of execution on all engineering and surveying documents that have been issued by the registrant to a client or any public or governmental agency as completed work. A facsimile signature is not acceptable. Preliminary documents, so marked in large bold letters, shall contain a statement that the documents are not to be used for construction, bidding, recordation, conveyance, sales, or as the basis for the issuance of a permit. Preliminary documents are not required to have the registrant's seal and signature affixed, but must bear the name and registration number of the registrant, and the firm's

name, if applicable. No seal, signature or date shall be required in any of the following situations:

1. on any sewage facility project in which the estimated project cost of the sewage facility, plus installation but not including cost of fencing, does not exceed \$5,000, as calculated by agency engineers reviewing the project;

2. on any water facility project in which the estimated project cost of the facility, including lines, pumps, water treatment work and installation, does not exceed \$5,000, as calculated by agency engineers reviewing the project; provided that such project does not cause a change in treatment, chemical addition, or any other process affecting either the quality or quantity of water being produced;

3. on any project for the construction of individual/private water wells;

4. on any project involving both water and sewage facilities, provided that the estimated project cost of each facility does not exceed \$5,000, as calculated by agency engineers reviewing the project;

5. in-kind replacement of water or sewage facilities in which the estimated project cost of the replacement does not exceed \$5,000, as calculated by agency engineers reviewing the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:112 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996).

Paul L. Landry, P.E.
Executive Secretary

9604#003

RULE

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

Managed Prescription Drug Benefits

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees has adopted the following rule:

Whereas the health and welfare of the employees of the state of Louisiana and of the public school systems within the state is crucial to the delivery of vital services to the citizens of the state; and

Whereas the State Employees Group Benefits Program provides health and accident benefits for approximately

76,300 active and retired employees of the state of Louisiana and many school boards across the state, with over 155,000 total covered individuals; and

Whereas the plan for delivery of and payment for health care services to members of the State Employees Group Benefits Program can impact upon the availability of services necessary to maintain the health and welfare of the covered employees and their dependents; and

Whereas the Board of Trustees of the State Employees Group Benefits Program contracted for a managed prescription drug benefit program implemented on January 1, 1996, in order to improve the plan for delivery of and payment for outpatient prescription drug benefits; and

Whereas it is necessary to amend the Plan Document of Benefits for the State Employees Group Benefits Program in connection with the managed prescription drug benefit program; and

Whereas it is necessary to amend the Plan Document of Benefits for the State Employees Group Benefits Program in order to make changes with regard to lifetime maximum benefits and annual restoration thereof; and

Whereas it is necessary to amend the Plan Document of Benefits for the State Employees Group Benefits Program in order to clarify certain benefit limitations and exclusions in light of recent litigation;

Now therefore, the Board of Trustees of the State Employees Group Benefits Program has adopted the following amendments to the Plan Document of Benefits, effective upon publication:

Amendment Number 1

Amend the SCHEDULE OF BENEFITS on pages 4 and 5 of the Plan Document in the following particulars:

A. Amend the Lifetime Maximum and Automatic Annual Restoration provisions on page 4 read as follows:

"Lifetime Maximum for all benefits except Outpatient Prescription Drug Benefits on and after January 1, 1996, per Person. . . \$750,000*

Automatic Annual Restoration for all benefits except Outpatient Prescription Drug Benefits on and after January 1, 1996. . . \$ 4,000*

Lifetime Maximum for all Outpatient Prescription Drug Benefits on and after January 1, 1996, per person (no Automatic Annual Restoration). . . \$250,000"

B. Add a new footnote on page 4, as follows, and redesignate the other footnotes on pages 4 and 5 accordingly:

"*Lifetime Maximum in excess of \$750,000 may be accumulated pursuant to the automatic annual restoration."

C. Under "Deductibles" on page 4, amend the prescription drug deductible provision to read as follows:

"Prescription drugs (in addition to and separate from calendar year deductible). . . \$150

(Not subject to family unit maximum or annual stoploss)"

D. Under "Percentage Payable after Satisfaction of Applicable Deductibles" on page 5, amend the prescription drug provision to read as follows:

"Prescription Drugs (subject to a minimum copayment of \$3 per prescription and not to exceed the brand name and generic maximum allowable charges) . . . 90 percent

(network), 50 percent non-network, in state, 80 percent non-network, out-of-state****"

E. Amend the redesignated footnote "****" on pages 4 and 5 to read as follows:

"**** A PPO provider or network pharmacy will be paid (after deductibles) at 90 percent of negotiated fee.

a. If the needed medical service is available from a PPO provider in the area where the service is to be performed and the covered person chooses not to use the preferred provider, or if a covered person receives an eligible prescription drug from a non-network in-state pharmacy, benefits will be paid at 50 percent (after deductibles) of negotiated fee.

b. If the needed medical service is not available from a PPO provider in the area where the service is to be performed, or if a covered person receives an eligible prescription drug from a non-network out-of-state pharmacy, benefits will be paid at 80 percent (after deductibles) of negotiated fee."

F. Amend item 4 in redesignated footnote "*****" on page 5 to read as follows:

"***** ...4) expenses for prescription drugs (never eligible for 100 percent reimbursement)."

Amendment Number 2

Amend Article 1, Section I, Subsection P to read as follows:

"P. The term *PPO* as used herein shall mean a Preferred Provider Organization. A PPO is a medical provider such as a hospital, doctor or clinic who has entered into a contractual agreement with the Program to provide medical services to covered persons at a reduced or discounted price. In return, the Program has agreed to reimburse the PPO at an increased level of benefits.

With reference to outpatient prescription drug benefits only, the term *Network Pharmacy* as used herein shall mean a pharmacy which participates in a network established and maintained by a third-party prescription benefits management firm with which the Program has contracted to provide and adjudicate prescription drug benefits."

Amendment Number 3

Amend Article 3, Section I, Subsection C, Paragraphs 1, 2, and 4, and add a new Paragraph 5, to read as follows:

"C. Benefits for Eligible Medical Expenses

When disease, illness, accident or injury requires the covered person to incur any of the eligible expenses defined herein, ...

1. 50 percent of the first \$5,000 of eligible expenses incurred with non-PPO providers in an area where PPO contracts are in force and can provide the needed medical service;

2. 80 percent of the first \$5,000 of eligible expenses incurred in areas where no PPO contracts are in place or where PPO providers cannot provide the needed medical service;

3. ...

4. except for prescription drugs, 100 percent of eligible expenses in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the Schedule of Benefits; and

5. the percentage payable for eligible outpatient

prescription drug expenses shall be determined in accordance with the provisions of Article 3, Section XI."

Amendment Number 4

Amend Article 3, Section I, Subsection E, to read as follows:

"E. Restoration of Comprehensive Medical Benefits

For all Comprehensive Medical Benefits under Article 3, Section I, other than Outpatient Prescription Drug benefits on and after January 1, 1996, the automatic annual restoration amount as stated in the Schedule of Benefits shall be restored by the Plan on each January 1."

Amendment Number 5

Amend Article 3, Section I, Subsection F, Preamble and Paragraphs 8, 9, 10, and 11, and add a new Paragraphs 36 and 37, to read as follows:

"F. Eligible Expenses

The following shall be considered eligible expenses except when related to or in connection with non-covered procedures as listed in Section VIII of this Article. These eligible expenses shall be subject to applicable limitations of the Fee Schedule and the Schedule of Benefits, under Comprehensive Medical Benefits when prescribed by a physician and medically necessary for the treatment of a covered person:

* * *

8. Subject to the provisions of Article 3, Section XI, and the limitations and deductibles specified in the Schedule of Benefits, drugs and medicine approved by the Food and Drug Administration or its successor, requiring a prescription, dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a covered person as an inpatient hospital patient or as an outpatient surgical patient, including insulin, Retin-A dispensed for covered persons under the age of 26, vitamin B12 injections, and prescription potassium chloride, but not including items listed in Article 3, Section VIII(W);

9. Over the counter diabetic supplies, subject to the provisions of Article 3, Section XI, and the limitations and deductibles for prescription drugs specified in the Schedule of Benefits;

10. Surgical supplies and medical supplies as listed below:

Catheters - External and Internal

Cervical Collar

IV Connectors

IV Tubing

Kidney Dialysis Supplies

Leg Bags for Urinal Drainage

Ostomy Supplies

Prosthetic Socks

Prosthetic Sheath

Sling (Arm or Wrist)

Suction Catheter for Oral Evacuation

Surgical Shoe (Following Foot Surgery Only);

11. Intravenous injections, solutions, and eligible related intravenous supplies, except in conjunction with home health care services;

* * *

36. Oxygen and equipment necessary for its administration; and

37. Services and supplies included in an approved treatment plan pursuant to the Case Management provisions in Section IV of this Article."

Amendment Number 6

Amend Article 3, Section VI, Subsection E, Paragraph 2, relative to outpatient benefits under the Catastrophic Illness Endorsement by deleting subparagraph c, relative to drugs and medicines, in its entirety and redesignating subparagraphs d and e as c and d, respectively.

Amendment Number 7

Amend Article 3, Section VIII, Subsections W and KK to read as follows:

"VIII. Exceptions and Exclusions for All Medical Benefits

No benefits are provided under this contract for:

* * *

W. Appetite suppressant drugs, dietary supplements, topical forms of Minoxidil, Retin-A dispensed for covered persons over age 26, nutritional or parenteral therapy, vitamins and minerals, and drugs available over the counter;

* * *

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

* * *

Amendment Number 8

Amend Article 3, Section X, Subsection B, Paragraph 2 to read as follows:

2. If a non-PPO provider is used in an area where there are PPO providers of the same service, then the plan member is reimbursed 50 percent of the eligible expenses. If there is no PPO provider of the same service in the area where the service is provided, then the plan member is reimbursed 80 percent of eligible expenses. If services are received from a PPO, then services are reimbursed at 90 percent of the PPO rate with payments made to the PPO provider. These are all made subject to deductibles to the PPO provider. There is contractual assignment to every PPO provider."

Amendment Number 9

Amend Article 3, by adding a new Section XI to read as follows:

"XI. Prescription Drug Benefits

Effective January 1, 1996, outpatient prescription drug benefits are adjudicated by a third-party prescription benefits management firm with whom the Program has contracted. In addition to all provisions, exclusions and limitations relative to prescription drugs set forth elsewhere in this Plan Document, the following shall apply to expenses incurred for outpatient prescription drugs:

A. Upon presentation of the Group Benefits Program identification card at a network pharmacy, the plan member shall be responsible for payment of 10 percent of eligible

charges for the drug, with a minimum copayment of \$3 per prescription, provided, however, that in no event will a combination of payments made by the prescription benefits management firm and the plan member exceed the actual charge by the pharmacy for the drug.

B. In the event the plan member does not present the Group Benefits Program identification card to the network pharmacy at the time of purchase, the plan member shall be responsible for full payment for the drug and must then file a claim with the prescription benefits management firm for reimbursement, which shall be limited to the rates established for non-network pharmacies.

C. In the event the plan member obtains a prescription drug from an in-state non-network pharmacy, benefits shall be limited to 50 percent and benefits for prescription drugs obtained from an out-of-state non-network pharmacy shall be limited to 80 percent. In either event, a plan member must submit a claim to the prescription benefits management firm in order to receive benefits.

D. Regardless of where the prescription drug is obtained, eligible expenses for single-source brand name drugs shall be limited to the prescription benefits management firm's maximum allowable charge and eligible expenses for generic drugs and for brand name drugs for which a generic equivalent is manufactured shall be limited to the prescription benefits management firm's generic maximum allowable charge.

E. Prescription drug dispensing and refills shall be limited in accordance with protocols established by the prescription benefits management firm, including the following limitations:

1. up to a 34-day supply of acute drugs may be dispensed at one time;
2. up to a 90-day supply of maintenance drugs may be dispensed at one time; and
3. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

F. The Board of Trustees reserves the authority to administratively adopt prior authorization and/or case management procedures governing the terms and conditions under which expenses for certain drugs are considered eligible."

Amendment Number 10

Amend Article 4, Section II to read as follows:

"II. Deadline for Filing Claims

A properly submitted claim for benefits as a result of any disease, illness, accident or injury must be received by the State Employees Group Benefits Program, or for outpatient prescription drug benefits, by the prescription benefits management firm, by 4:30 p.m., close of business, on June 30 next following the end of the calendar year in which the medical expenses were incurred. When June 30 is a non-work day, the deadline is automatically extended to 4:30 p.m. of the next regular workday. Each expense shall constitute a separate claim."

Amendment Number 11

Amend Article 4 by deleting Section IV, relative to filing claims for prescription drugs, in its entirety and redesignating Sections V through XVIII as IV through XVII, respectively.

Amendment Number 12

Amend Article 5, Section IV by adding a new subsection C to read as follows:

"IV. Request for Review

A plan member, affected by an initial determination, may appeal the determinations in the following manner:

* * *

C. The foregoing notwithstanding, an appeal from the disallowance of a claim relating to outpatient prescription drug benefits may not be filed until all review and appeal procedures available through the prescription benefits management firm have been exhausted. The appeal must be filed within 90 days of the prescription benefits management firm's final determination, a copy of which must be included with the request for appeal."

James R. Plaisance
Executive Director

9604#030

RULE

Department of Treasury Board of Trustees of the Teachers' Retirement System

Retirees Returning to Work at Charter Schools (LAC 58:III)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and under the authority contained in R.S. 17:3971-3982 and R.S. 11:707, 737, 738, 739, 780.1, 783(A) and 791 the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) adopted policies governing retirees who return to work at a charter school, effective April 20, 1996.

Title 58

RETIREMENT

Part III. Teachers' Retirement System

Retirees Returning to Work at Charter Schools

A. Any retiree receiving a retirement benefit from Teachers Retirement System of Louisiana (TRSL), who subsequently returns to work at a school chartered under the provisions of R.S. 17:3971-3982, shall be governed by the return-to-work provisions contained in R.S. 11:707, 737, 738, 739, 780.1, 783(A) or 791, whichever is applicable.

B. Local school systems granting charters will be responsible for reporting to TRSL, in accordance with R.S. 11:707, the employment of any TRSL retiree by the charter school. Failure to report this information will result in penalties assessed in accordance with R.S. 11:737.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971 - 3982 and R.S. 11:707, 737, 738, 739, 780.1, 783(A) and 791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of Teachers' Retirement System of Louisiana, LR 22:290 (April 1996).

James P. Hadley, Jr.
Director

9604#006

Notices of Intent

NOTICE OF INTENT

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

Registration of Pesticides; Certification of Commercial Applicators; Licensing of Owner-Operators; and Restrictions on Applications in Schools (LAC 7:XXIII.Chapter 131)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding standard registrations of pesticides, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in schools. These rules comply with and are enabled by R.S. 3:3203, R.S. 3:3221, R.S. 3242, R.S. 3243, and R.S. 3249.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 131. Louisiana Advisory Commission on Pesticides

Subchapter D. Registration of Pesticides

§13113. Standard Registrations

A. Application for registration shall consist of two types, namely initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of November each year. Application shall be made on forms prescribed by the commissioner.

1. Each application for the initial registration of a pesticide and for the reregistration of a pesticide for which the label has been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. two complete copies of the labeling of the pesticide, containing:
 - i. the specific name of each active ingredient in the pesticide;
 - ii. the percentage of the active ingredients in the pesticide;
 - iii. the percentage of the inert ingredients in the pesticide;
 - iv. the net contents of each package in which the pesticide will be sold;
 - v. a statement of claims made for the pesticide;
 - vi. directions for the use of the pesticide, including warnings or caution statements.
- d. the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;

e. such other information as the commissioner may require.

2. Application for reregistration of a pesticide for which the label has not been changed shall be accompanied by the following information:

- a. The brand of the pesticide.
- b. The name, address and contact person of the manufacturer of the pesticide.
- c. Such other information as the commissioner may require.

3. The labeling requirements as described in LAC 7:XXIII.13113.A.1.c. shall be resubmitted every five years after the initial registration or reregistration of a pesticide for which the label has been changed.

B. Any registration may be denied by the commissioner if he determines that:

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide,
2. the label on the pesticide does not comply with state and federal requirements,
3. use of the pesticide may produce unreasonable adverse effects on the environment.

C. Any pesticide registered in Louisiana must comply with the following:

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.
2. Each shipping container must bear the lot or batch number of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15:76 (February 1989), LR 22:

Subchapter F. Certification

§13123. Certification of Commercial Applicators

A. ...

B. Categories are established on the basis of the location where the application of pesticides will be made, and each applicant for certification is required to successfully complete an examination in the category in which the applicant desires certification.

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

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

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

Category 1. - Category 6.

* * *

Category 7. Industrial, Institutional, Structural and Health Related Pest Control. This category includes commercial applicators and nonfee commercial applicators using or supervising the use of pesticides with restricted uses in, on or around food handling establishments, human dwellings, institutions, such as schools and hospitals, industrial establishments, including warehouses and grain

elevators, and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products. This category has been subdivided into four subcategories:

i. ...
ii. Subcategory 7b is for applicators who apply or supervise the application of restricted use pesticides on a nonfee basis in, on or around institutions, motels, hotels, hospitals and like places as the owner or in the employ of the owner and for persons applying or supervising the application of any herbicide, rodenticide, or insecticide for grass and weed control and rodent and general pest control in, on, or around structures or grounds of government subsidized and administered housing and multiplex housing.

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

Each 7d certified applicator shall annually train all persons applying pesticides under his/her supervision in the proper handling, storage, use, application and disposal of pesticides.

Category 8. Public Health Pest Control. This category is for commercial applicators and state, federal and other government employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance. This category has been subdivided into six subcategories, as follows:

i. Mosquito Control: Applicator. This subcategory is for commercial applicators and government employees who are applicators in mosquito control programs.

ii. Rodent Control. This subcategory is for commercial applicators and government employees who are applicators in rodent control programs.

iii. Community Public Health. This subcategory is for commercial applicators and government employees who are applicators concerned with the control of all arthropods and rodents of public health importance.

iv. Mosquito Control: Program Supervisor. This subcategory is for commercial applicators and government employees who are program supervisors in organized mosquito control programs.

v. Antimicrobial Pest Control. This subcategory is for commercial applicators engaged in antimicrobial pest control using restricted use pesticides.

vi. Sewer Root Control. This subcategory is for commercial applicators and government employees who are applicators engaged in root control in sewers using restricted use pesticides.

Category 9. Regulatory Pest Control. This category includes state, federal or other governmental employees using or supervising the use of pesticides with restricted uses in the control of regulated pests.

Category 10. Demonstration and Research Pest Control. This category includes individuals who demonstrate to the public the proper use and techniques of application of pesticides with restricted uses or supervise such demonstrations and persons conducting field research with pesticides, and in doing so, use or supervise the use of pesticides with restricted uses. This category has been subdivided into eight subcategories:

i. Agricultural Pest Control;
ii. Forest Pest Control;
iii. Ornamental and Turf Pest Control;
iv. Seed Treatment;
v. Aquatic Pest Control;
vi. Right-of-way Pest Control;
vii. Industrial, Institutional, Structural and Health Related Pest Control;
viii. Public Health Pest Control.

C. In addition to a determination of competence in a specific category or subcategory, each commercial applicator shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. In order to meet this requirement, each commercial applicator, at the time of initial certification in at least one or more categories, must take a general standards exam.

D. Examinations for certification for commercial applicators will be given upon request of the applicant at Baton Rouge at the Office of Pesticides and Environmental Programs or in any district office of the Department of Agriculture during office hours. Request for exams in district offices must be made seven days in advance.

E. Each person that has been certified in any category or subcategory as a commercial applicator, and whose certification has not been revoked or suspended, may renew that certification by attending a recertification meeting or training course for that category as designated by the commissioner.

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

G. Each person who is certified as a commercial applicator need not be certified as a private applicator or a pesticide salesperson to apply or supervise the application of any restricted use pesticide as a private applicator or sell or supervise the sale of restricted use pesticides.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 22:

Subchapter H. Licensing Requirements

§13131. Owner-Operators

A.- N. ...

O. Grass-Cutter Exemption. A person, when applying a general use pesticide to the lawn or ornamental plants of an individual residential property owner using pesticides and pesticide application equipment owned and supplied by the property owner is exempt from licensing provided the person does not advertise for or solicit herbicide (grass or weed control) application business and does not hold oneself out to the public as being engaged in herbicide (grass or weed control) application. The person shall not supply his/her own pesticide application equipment, use pesticide applying power equipment, or use any equipment other than a hand held container when applying the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:194 (March 1984); amended LR 12:87 (February 1986); amended LR 22:

Subchapter I. Regulations Governing the Application of Pesticides

§13144. Special Restrictions on Pesticide Applications in Schools

A. Any person who applies or supervises the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around school structures and grounds shall be a certified commercial applicator or under the supervision of a certified commercial applicator.

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

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

1. school name and mailing address, physical address, telephone number and contact person;
2. name and license or place of business number of company(s) and certification numbers of applicators, if contracted;

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

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

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

- a. pest to be controlled;
- b. type of application to be used;
- c. location of application;
- d. restricted use pesticide or general use pesticide.

6. proposed location and date for noncertified applicator training;

7. other methods of pest control.

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

E. Records of pesticide applications shall be maintained according to LAC 7:XXIII.13157 and records of inspections, identification, monitoring, evaluations, and pesticide applications for grass and weed control and general pest control, shall be maintained by the school and submitted with the annual integrated pest management plan to the department annually on a form prescribed by the department in accordance with LAC 7: XXIII.13157.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 21:928 (September 1995), amended LR 22:

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through May 30, 1996, at 5835 Florida Boulevard., Baton Rouge, LA 70806. A public hearing will be held on these rules on May 30, 1996, at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Registration of Pesticides

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No anticipated implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Section 13113-reduces cost to affected persons because labels are only required once in five years unless changed. Section

13123-training sessions are generally \$15-\$20 one time cost and \$10 per category testing fee. Section 13131-no cost to affected persons. Section 13144-no cost to affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment.

Richard Allen
Assistant Commissioner
9604#017

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Civil, Emergency, Special and Military Leave

The State Civil Service Commission will hold a public hearing on Wednesday, May 8, 1996 to consider the proposed amendments to Civil Service Rules 1.20.01, 11.23 and 11.26, and the repeal of Civil Service Rules 1.15.3, 1.20.02 and 1.20.03. The public hearing will begin at 9 a.m. in the Commission Hearing Room at the Department of State Civil Service, Second Floor, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Consideration will be given to the following:

1.15.3 Repeal

1.20.01 *Military Purposes*—the performance of continuous and uninterrupted military duty on a voluntary or involuntary basis and includes active duty, active duty for training, initial active duty for training, full-time National Guard duty, annual training and inactive duty for training (weekend drills).

1.20.02 Repeal

1.20.03 Repeal

11.23 Civil, Emergency, and Special Leave.

An employee serving with job appointment, probationary or permanent status shall be given time off without loss of pay, annual leave, or sick leave when

(a) - (k) ...

11.26 Military Leave.

(a) Military Leave with Pay.

1. Provided they give advance notice, employees serving on job appointment, probationary or permanent status, who are members of a Reserve Component of the Armed Forces of the United States, shall be entitled to military leave with pay.

2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

3. Maximum military leave with pay for military purposes is 15 working days per calendar year, except that it shall be limited to 15 working days for each tour of active duty.

(b) Use of Annual and Compensatory Leave for Military Purposes.

1. Employees serving on job appointment, probationary or permanent status, who give advance notice of

military obligations and apply for annual or compensatory leave for military purposes, shall be granted such leave.

2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

(c) Use of Leave Without Pay For Military Purposes

Employees either serving on job appointment status for significant periods of time, or probationary, or permanent status, who have either exhausted annual leave and compensatory time or choose not to use this paid leave for military purposes, shall be placed on leave without pay. This period of leave without pay for military purposes shall not exceed six years. After six years, they shall be separated from the classified service.

(d) Rights Upon Return

Probationary and permanent employees and employees serving on job appointments for significant periods of time returning to their classified positions under the provisions of this Rule or Rule or 8.19, shall return with such seniority, status, pay, and annual and sick leave accrual rates as they would have had if they had not been absent for military training or military active duty; however, status is subject to the provisions of Rule 9.3.

(e) - (f) ...

Explanation

This is a proposal to amend and re-enact Rules 11.26(a), (b), (c), (d) and 1.20.01 and 11.23; and repeal Rules 1.15.3, 1.20.02 and 1.20.03 to comply with federal and state law.

Regarding military leave, the definition of "military purposes" has been broadened to include weekend drills and active duty. Previously, military leave was not allowed for these activities. This will bring the rule into line with state law which governs unclassified employees.

The rules have been broadened to include job appointments. This is necessary since federal law and state law now stipulate that a reservist or guardsman is entitled to re-employment if there is a reasonable expectation that "such employment will continue indefinitely or for a significant period." Since some job appointments last for several years, it seems reasonable to cover them with the rule to avoid conflict with the law.

There is also a provision in the law for advance notice. However, it should be noted that the advance notice given by the reservist or guardsman can be either written or verbal. The advance notice is not required by the laws when there is a "military necessity" or the notice is considered "unreasonable or impossible." There is little guidance available on just what the law is trying to do in this instance; however, it is fairly safe to assume that it will cover call-ups for contingencies ranging from the Persian Gulf Crisis to peace-keeping missions and even extend to local alerts, where a reserve unit does not give their members prior notice of a weekend drill to test their readiness to respond. Much of the advance notice can be satisfied if the agency simply asks the reservist to provide a copy of his/her training schedule. However, if the department requests it of one reservist it should request it of all to avoid the anti-discrimination provision in the law. The only other instance where advance notice may be considered unreasonable is where a unit is

suddenly given a training slot to fill or a training date for the slot is moved up.

Federal law allows a reservist to claim his or her annual leave for military duty and state law allows them to claim their compensatory time (leave). Therefore, the rules have been changed to allow this. It should be noted that the reservist must apply for the leave - the agency cannot require the reservist to take this leave.

At present, both state and federal law allow an absence of up to five years, with many exceptions, before an employee may be separated. Our current rules call for six years and that figure should be maintained since the extra year will serve as a buffer against bad separations.

Rule 11.23 has been tightened to prevent any conflict with the anti-discrimination clauses in the laws.

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

If any accommodations are needed, please notify us prior to this meeting.

Herbert L. Sumrall
Director

9604#048

3) has not graduated from high school or completed a state- or district- approved educational program; and

4) does not meet any of the following exclusionary conditions:

transfer to another public school, or state- or district- approved education program;

temporary school-recognized absence due to suspension or school-approved illness; or death.

For purposes of applying the dropout definition, the following additional definitions apply:

A school year is defined as the 12-month period of time beginning October 1 and ending September 30.

A school completer is an individual who has graduated from high school or completed a state or district-approved education program.

A state- or district-approved program is one that leads to receipt of formal recognition from school authorities. It may include special education programs, home-based instruction, and school-sponsored secondary (but not adult) programs leading to a GED or some other certification differing from the regular diploma.

HISTORICAL NOTE: LR 22:

Interested persons may submit comments until 4:30 p.m., June 9, 1996 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Dropout Definition

In accordance with R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, a repeal of board policy 3.07.14 (stated below) relative to identifying students who enter adult education programs as transfers rather than dropouts, and authorized the Department of Education to follow the federal definition.

Repeal Rule 3.07.14:

"Eligible students who desire to exit the K-12 program and transfer into Adult Education, with the permission of their parents and the authorization of the principal or counselor, will be considered as transfer students rather than dropouts."

The new rule will amend Bulletin 1452, the Handbook for Supervisors of Child Welfare and Attendance and School Social Welfare and Attendance as stated below:

"A dropout is an individual who:

1) was enrolled in school at some time during the previous school year and was not enrolled on October 1 of the current school year; or

2) was not enrolled on October 1 of the previous school year although expected to be in membership (i.e., was not reported as a dropout the year before); and

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Dropout Definition

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
A cost of approximately \$50 will be incurred by the state to print and distribute this policy change.
BESE estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$200. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no cost or economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition or employment as a result of this action.

Marlyn Langley
Deputy Superintendent
Management and Finance
9604#049

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Asbestos-containing Materials in School and State Buildings (LAC 33:III.Chapter 27) (AQ139)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.Chapter 27 (Log AQ139).

LAC 33:III.Chapter 27 is being revised to accommodate asbestos contractors and workers so that their accreditation and training period will run concurrently, reduce fraudulent accreditations, and clarify application procedures.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part. III. Air Quality

Chapter 27. Asbestos-containing Materials in Schools and State Buildings Regulation

§2701. Asbestos-containing Materials in Schools and State Buildings

* * *

[See Prior Text in A-C]

1. This regulation requires local education agencies and the state government to identify friable and nonfriable asbestos-containing material (ACM) in schools and state buildings by visually inspecting schools and state buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this rule. The regulation requires local education agencies and the state government to submit management plans to the Department of Environmental Quality on or before 90 days after promulgation of this regulation, to begin to implement the plans 180 days after promulgation of this regulation, and to complete implementation of the plans in a timely fashion. If an exemption is requested for a state building that contains no asbestos, an inspection report supporting that exemption should be submitted in accordance with Subsection B.3.b.i of this Section. Management plans submitted to and approved by the Department of Environmental Quality prior to the promulgation of this regulation shall meet the inspection and assessment requirements of this Chapter. In addition, local education agencies and the state government are required to employ persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The regulation also includes recordkeeping requirements. Local education agencies and the state government may contractually delegate their duties under this rule, but they remain responsible for the proper

performance of those duties. Local education agencies and the state government are encouraged to consult with the Air Quality Compliance Division of the Department of Environmental Quality for assistance in complying with this rule.

* * *

[See Prior Text in C.2]

D. All requests, reports, applications, submittals, and other communications pursuant to this Chapter shall be submitted to the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Compliance Division/Asbestos Program, Post Office Box 82135, Baton Rouge, Louisiana 70884-2135.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:1056 (December 1990), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:

§2703. Definitions

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows:

* * *

[See Prior Text]

Preventive Measures—actions taken to reduce disturbance of ACBM or otherwise eliminate the reasonable likelihood of the material's becoming damaged or significantly damaged.

Removal—the taking out or the stripping of substantially all ACBM from a damaged area, a functional space, or a homogeneous area in a school or state building.

* * *

[See Prior Text]

Small-scale, Short-duration Activities (SSSD)—tasks that involve less than or equal to three square feet or three linear feet of asbestos-containing material.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:

§2707. Inspection and Reinspections

* * *

[See Prior Text in A-A.4.c]

d. assume that some or all of the homogeneous areas are ACM, and for each homogeneous area that is not assumed to be ACM, collect and submit for analysis bulk samples under LAC 33:III.2709 and 2711;

* * *

[See Prior Text in A.4.e-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office

of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:

§2711. Analysis

A. Local education agencies and the state government shall have bulk samples, collected under LAC 33:III.2709 and submitted for analysis, analyzed for asbestos using laboratories accredited by the National Institute for Standards Technology (NIST) or another U.S. EPA approved accrediting authority.

B. Bulk samples shall not be composited for analysis and shall be analyzed for asbestos content by PLM, using the "Method for the Determination of Asbestos in Bulk Building Materials," (EPA/600/R.93/116).

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:

§2717. Response Actions

[See Prior Text in A-I.3]

4. An action may also be considered complete if the volume of air drawn for each of the five samples collected within the affected functional space is equal to or greater than 1,199 L of air for a 25-mm filter or equal to or greater than 2,799 L of air for a 37-mm filter, and the average concentration of asbestos as analyzed by the TEM method in Appendix A of 52 FR, pp. 41857 to 41894, October 30, 1987, for the five air samples does not exceed the filter background level of 70 structures per square millimeter (70 s/mm²). If the average concentration of asbestos of the five air samples within the affected functional space exceeds 70 s/mm², or if the volume of air in each of the samples is less than 1,199 L of air for a 25-mm filter or less than 2,799 L of air for a 37-mm filter, the action shall be considered complete only when the requirements of Subsections I.3 or 5 of this Section are met.

[See Prior Text in I.5-I.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:

§2719. Operations and Maintenance

[See Prior Text in A-D.3]

4. Use work practices or other controls, such as wet methods, protective clothing, HEPA-vacuums, mini-enclosures, and glove bags, as necessary to inhibit the spread of any released fibers.

[See Prior Text in D.5-F.2.b]

c. notify the Department of Environmental Quality, Air Quality Compliance Division, of the major fiber release

episode by phone as specified in LAC 33:I.3923 and in writing as specified in LAC 33:I.3925;

[See Prior Text in F.2.d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:

§2723. Management Plans

[See Prior Text in A]

1. Each local education agency or the state government shall develop an asbestos management plan for each school, including all buildings that are leased, owned, or otherwise used as school or state buildings, and submit the plan to the Department of Environmental Quality. After June 20, 1994, each plan must include Form AAC-8, Required Elements for Management Plans (latest revised form can be obtained from the Air Quality Compliance Division). The plan may be submitted in stages that cover portions of the school or state building under the authority of the local education agency or the state government before the deadline specified in LAC 33:III.2701.C.

[See Prior Text in A.2-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:

§2735. Exclusions

[See Prior Text in A-A.6]

7. An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building or, to the best of his or her knowledge, no ACBM was used as a building material in the building. The local education agency or the state government shall submit a copy of the signed statement of the architect, project engineer, or accredited inspector to the Department of Environmental Quality and shall include the statement in the management plan for that school or state building.

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:

§2739. Agent Accreditation

* * *

[See Prior Text in A-B.2]

3. Workers who are engaged in maintenance that disturbs more than three square or linear feet of ACBM which does involve its actual removal, enclosure, repair, or encapsulation shall receive their initial and refresher training from a training organization recognized by the Air Quality Compliance Division, Department of Environmental Quality. This training should be in accordance with the asbestos abatement worker course as described in Appendix A Subsection A.5 Initial Training. Workers who participate in the type of project described in this Paragraph must be accredited in accordance with Appendix A of this Chapter and must work under the close direction of an accredited supervisor during any work they perform.

4. Supervisors who are directing workers who may disturb ACM shall receive their initial and refresher training in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.4, from a training organization recognized by the Air Quality Compliance Division, Louisiana Department of Environmental Quality. Supervisors who participate in the type of project referenced in this Paragraph are responsible for ensuring that:

* * *

[See Prior Text in B.4.a-B.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:

APPENDIX A

Agent Accreditation Plan

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors, and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors, and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and

oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

* * *

[See Prior Text in A]

1. Inspectors. All persons who inspect for ACBM in schools and state buildings must be accredited. All persons seeking accreditation as inspectors shall complete a three-day training course as outlined below. The three-day program shall include lectures, demonstrations, four hours of hands-on training, individual respirator fit testing, course review, and a written examination. The use of audiovisual materials is recommended to complement lectures, where appropriate. The inspector training course shall adequately address the following topics. Hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

* * *

[See Prior Text in A.1.a-A.1.n]

2. Management Planners. All persons who prepare management plans for schools and state buildings must be accredited. Possession of current and valid inspector accreditation shall be a prerequisite for admission to the management planner training course. All persons seeking accreditation as management planners must complete an inspection training course as outlined above and a two-day management planning training course. The two-day training program shall include lectures, demonstration, course review, and a written examination. The use of audiovisual materials is recommended to complement lectures, where appropriate. The management planner training course shall adequately address the following topics:

* * *

[See Prior Text in A.2.a-A.3.t]

4. Asbestos Abatement Contractor/Supervisors. A person must be accredited as a contractor/supervisor to supervise any of the following activities with respect to friable ACBM in a school or state building: (1) a response action other than a SSSD activity, (2) a maintenance activity that disturbs friable ACBM other than a SSSD activity, or (3) a response action for a major fiber release episode. All persons seeking accreditation as asbestos abatement supervisors shall complete a five-day training course as outlined below. The training course shall include lectures, demonstrations, at least 14 hours of hands-on training, individual respirator fit testing, course review, and a written examination. The use of audiovisual materials is recommended to complement lectures, where appropriate. For purposes of Louisiana state accreditation, asbestos abatement supervisors include those persons who provide supervision and direction to workers engaged in asbestos removal, encapsulation, enclosure, or repair. Supervisors may include those individuals with the position title of foreman, working foreman, or leadman pursuant to collective bargaining agreements. At least one supervisor is required to be at the worksite at all times while

work is in progress. Asbestos workers must have access to accredited supervisors throughout the duration of the project. Contracted air-monitoring personnel must be accredited contractors/supervisors. Hands-on training must permit supervisors to have actual experience performing tasks associated with asbestos abatement. The supervisor's training course shall adequately address the following topics:

* * *

[See Prior Text in A.4.a-A.5.k]

B. Examination. A closed-book examination shall be given to all persons seeking accreditation who have completed an initial training course. A person seeking accreditation in a specific discipline shall pass the examination for that discipline prior to receiving a training certificate. For example, a person seeking accreditation as an inspector must pass the inspector's accreditation examination given by the training organization. Each examination shall adequately cover the topics included in the training course for that discipline. Persons who pass and fulfill other associated requirements will receive a certificate indicating that they are trained in a specific discipline. The following are the requirements for examinations in each area:

* * *

[See Prior Text in B.1-E.1.c]

- d. persons contracted to perform air monitoring.

* * *

[See Prior Text in E.1.e]

2. Application for Accreditation. The applicant for accreditation must submit the following items:

a. A completed Asbestos Accreditation Affidavit, Form AAC-1 that contains:

i. name, address, and telephone number of the applicant;

ii. social security number of the applicant;

iii. name, address, and telephone number of the applicant's employer;

iv. identification of the discipline(s) in which accreditation is sought;

v. completed statements of regulation possession and understanding and of regulatory enforceability;

vi. previous accreditation number, if applicable; and

vii. signature by the applicant and the date of application.

b. A copy of the current class training certificate. First time applicants must also submit copies of initial training and all subsequent refresher (update) certificates.

i. The training course(s) must have at least contingent approval from EPA or be approved by a state authorized by the EPA to approve training courses.

ii. Applicants receiving training from providers not recognized by Louisiana must also submit proof of training in current Louisiana regulations from a Louisiana recognized training provider.

c. Applications for inspector, management planner, and project designer must include, where applicable:

i. high school diploma or the highest level of education achieved; and

ii. registration as an architect, or certified industrial hygienist, or engineering degree.

d. Applicable fees (LAC 33:III.223).

e. A 1" x 1 1/4" photograph of the applicant's face.

3. The completed application with applicable fees (LAC 33:III.223) is to be sent to:

Louisiana Department of Environmental Quality

Air Quality Compliance Division

Asbestos Program

P.O. Box 82135

Baton Rouge, LA 70884-2135

4. Persons shall be considered accredited upon receipt of a certificate of accreditation or identification card issued by the department.

* * *

[See Prior Text in E.5-E.6.a]

b. Beginning September 1, 1996, a qualified individual seeking accreditation shall be issued accreditation certificates, which expire one year after the last day of his or her most recent training course. Accreditation certificates that expire before December 31, 1996, will not require a fee. A qualified individual can maintain continuous accreditation with the same annual expiration/renewal date, provided the individual submits the required documents and receives refresher training within 60 days of his or her expiration/renewal date. If an individual seeking reaccreditation has received refresher training earlier than within 60 days of his or her existing expiration/renewal date or receives training after his or her expiration/renewal date, his or her new expiration/renewal date will be one year after the last day of his or her most current training, provided the applicant has received initial or refresher training in the past year.

* * *

[See Prior Text in E.7-E.8.a]

b. for failure to notify the Air Quality Compliance Division of changes in status;

* * *

[See Prior Text in E.8.c]

d. for failure to allow an Air Quality Compliance Division representative to inspect and review sites and documentation;

* * *

[See Prior Text in E.8.e-E.10.b]

c. Trainers shall not participate both as a student and as an instructor in their own asbestos training courses for certification.

d. Trainers may not receive training for certification purposes from training organizations that employ them.

* * *

[See Prior Text in F]

1. Submit the latest revision of the Asbestos Training Organization Recognition Application, Form AAC-3, (which may be obtained from the Air Quality Compliance Division) requesting approval to train asbestos agents.

* * *

[See Prior Text in F.2-F.2.g]

3. The completed application with applicable fees for organization and trainer recognition (LAC 33:III.223) are to be sent to:

Louisiana Department of Environmental Quality
Air Quality Compliance Division
Asbestos Program
P. O. Box 82135
Baton Rouge, LA 70884-2135

[See Prior Text in F.4-F.5.a]

b. The recognized training organization must keep the Air Quality Compliance Division informed of any change in status of the training organization, such as pending fines, notices of violation, changes in instructor status, etc.

[See Prior Text in F.5.c]

i. The notification must be received in writing by the Air Quality Compliance Division at least five days prior to class commencement. (Notification must be made at least three days prior to a course when only the state regulations are to be taught.)

ii. Cancellation of classes must be received by the Air Quality Compliance Division before the class should have commenced.

d. Within 30 days of the completion of a class a complete roster of trainees, their social security numbers, and examination grades must be submitted to the Air Quality Compliance Division. In addition, all Louisiana recognized training organizations must submit copies of all training certificates they issue with an attached 1" x 1 1/4" photograph of the face of each trainee.

e. The Air Quality Compliance Division must be notified by phone or in writing of changes in class schedules prior to the date when the course was to have commenced.

[See Prior Text in F.5.f-F.5.k.v]

6. Applications for trainer recognition shall be completed using the latest revision of the Asbestos Trainer Recognition Form, AAC-4 (latest revision of the form may be obtained from the Air Quality Compliance Division). A resume indicating proof of experience as described in Subsection F.2.d.ii of this Appendix must be attached. The completed application with applicable fees (LAC 33:III.223) is to be sent to:

Louisiana Department of Environmental Quality
Air Quality Compliance Division
Asbestos Program
P. O. Box 82135
Baton Rouge, Louisiana 70884-2135

[See Prior Text in F.7-F.9.e.iii]

NOTE: Copies of Forms AAC-1, 3, and 4 previously located here are hereby being deleted. All forms may be obtained from the Air Quality Compliance Division, Asbestos Program.

A public hearing will be held on May 30, 1996, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by the Log AQ139. Such comments should be submitted no later than June 6, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to fax number (504) 765-0486.

J. Dale Givens
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Asbestos-containing Materials in Schools and State Buildings

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated costs or savings to local governmental units. Implementation costs to the department are estimated at less than \$1,000.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collection for local governments is anticipated. Because the state is switching from a fixed annual expiration/renewal date to an expiration/renewal date based on training expiration of each individual, the department will accrue accreditation fees throughout the year, rather than the majority of the fees being collected in September. The state also benefits by not having to contend with the processing of thousands of accreditations in the month of September. There will be no net gain or loss of revenue on an annual basis.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The regulated community requested that the department change from a fixed annual expiration/renewal date to an expiration/renewal date based on training expiration. There is no significant economic benefit to individuals seeking accreditation. The change will help licensed asbestos contractors maintain the accreditation of their staff. The removal of the exception for Certified Industrial Hygienist from accreditation requirements will have no economic effect. Effective November 1994, under LAC 33:III.5151.P.1.e, all air monitoring personnel must be accredited as contractors/supervisors to conduct air-monitoring. The two Chapters are now consistent with each other.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The only anticipated effect is that photographic IDs will decrease the number of workers with forged credentials. Contractors will have additional evidence of accreditation and training.

Gus von Bodungen
Assistant Secretary
9604#044

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Removal of Perchloroethylene from Applicability (LAC 33:III.Chapter 21)(AQ141)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.2117, 2129 (Log AQ141).

The list of compounds which are exempt from Chapter 21 regulations is being modified to include perchloroethylene (perc) also known as tetrachloroethylene. LAC 33:III.2129, Perchloroethylene Dry Cleaning Systems, is being rescinded, since perchloroethylene is no longer regulated under Chapter 21. The purpose of the modification is to make Chapter 21 consistent with the corresponding EPA regulations for preparation of State Implementation Plans (SIPs). Perchloroethylene will still be regulated as a Hazardous Air Pollutant. Perchloroethylene has been exempted as of February 7, 1996 from the federal definition of VOC (40CFR 51.100) for the purpose of preparing SIPs.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air Quality

Chapter 21. Control of Emission of Organic Compounds

§2117. Exemptions

The following compounds are considered exempt from the control requirements of LAC 33:III.Chapter 21: methane, ethane, 1, 1, 1 trichloroethane (methyl chloroform), methylene chloride (dichloromethane), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113), trifluoromethane (FC-23), 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123), 1,1,1,2-tetrafluoroethane (HFC-134a), 1,1-dichloro 1-fluoroethane (HCFC-141b), 1-chloro 1,1-difluoroethane (HCFC-142b), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,2,2-tetrafluoroethane (HFC-134), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), acetone, parachlorobenzotrifluoride (PCBTF), perchloroethylene (tetrachloroethylene), and cyclic, branched, or linear completely methylated siloxanes. The following classes of perfluorocarbons are also considered exempt from the control requirements of LAC 33:III.Chapter 21: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:

§2129. Reserved

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), repealed LR 22:

A public hearing will be held on May 30, 1996, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by the Log AQ141. Such comments should be submitted no later than June 6, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to fax number (504)765-0486.

J. Dale Givens
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Removal of Perchloroethylene from Applicability in Chapter 21

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units for this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost or economic benefit to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal will not have any known effect on competition or employment.

Gus Von Bodungen
Assistant Secretary
9604#051

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Crime Victims Reparations Board**

Compensation to Victims (LAC 22:XIII.Chapters 1-5)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and under the authority of the Crime Victims Reparations Act, R.S. 46:1801 et seq., notice is hereby given that the Crime Victims Reparations Board intends to amend its rules concerning compensation to victims of crime. These rules remove policy constraints of automatic denial and automatic reduction of awards for certain victims, remove life insurance as a collateral offset for certain claimants, and increase the maximum amount of lost wages and loss of support awards. Furthermore, the amendments include provisions for crime scene evidence, an area previously not covered by board rule; will allow for quicker delivery of board checks; and will ensure compliance with two federal grant requirements. These amendments were adopted on an emergency basis effective March 13, 1996 and published in full in the emergency rule section of this *Louisiana Register*.

Interested persons may request a public hearing or submit written comments or views on these proposals to Rosanna M. Hollingsworth, Program Manager, Crime Victims Reparations Board, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806. Comments or requests must be submitted by 4:30 p.m., May 24, 1996. A public hearing will be held on May 28, 1996, at 3 p.m., in the conference room on the seventh floor, 1885 Wooddale Boulevard, Baton Rouge, LA.

Lamarr Davis
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Compensation Policies**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These proposed amendments will not result in additional costs to any state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on state or local government revenue collections as a result of these proposed amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The statute allows for a maximum award in typical cases up to \$10,000. The board sets caps for each category of compensable pecuniary loss available to eligible victims. These proposed amendments will result in award increases within the statutory limit in several loss categories. One example is the increase from \$5,200 to \$10,000 for lost wages. Also, certain automatic preclusions to an award and automatic reductions in awards will be eliminated. One example is the elimination of life insurance proceeds benefitting the spouse or dependent of a homicide victim as a collateral offset to an award for funeral expenses. Funds used for awards are self-generated, dedicated funds derived primarily from costs levied in criminal court and a federal grant. The program has sufficient funds available to meet the anticipated increase in award payments. In addition, increased payout increases the amount of the federal grant received.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of these proposed amendments.

Michael A. Ranatza
Executive Director
9604#013

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of the Commissioner**

General Travel—PPM 49 (LAC 4:V.Chapter 15)

The Division of Administration under the authority granted by R.S. 39:231, has determined that it is necessary to exercise the emergency provisions of R.S. 49:950-968. to amend Title 4, Part V, Policy and Procedure Memoranda, Chapter 15, General Travel Regulations—PPM Number 49. Under this authority, the commissioner of administration is revising per diem rates (mileage, meals and lodging) to more accurately reflect the cost associated for state business travel and to clarify certain sections of PPM 49.

Title 4

ADMINISTRATION

**Part V. Policy and Procedure Memorandum
Chapter 15. General Travel Regulations - PPM
Number 49**

§1503. General Specifications

- A.1. - 2. ...
- A.3. Contracted Travel Services

The state has contracted for travel-agency services which must be used unless exemptions have been granted by Division of Administration prior to travel. Reservations for in-state hotel/motel accommodations are not required to be made through the contracted travel agencies.

- A.4. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16: (November 1990), LR 22:

Subchapter B. Definitions

§1507. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

Authorized Persons—

a. advisors, consultants, contractors, or other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

Conference/Convention—is herein defined as a meeting for a specific purpose and/objective. Documentation required is a formal agenda and/or program.

Emergency Travel—under extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact by the commissioner of administration may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

Extended Stays—any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

In-State Travel—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico and the Virgin Islands.

Official Domicile—every state officer, employees, and authorized person, except those on temporary assignment, shall be assigned an official domicile.

a. Except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace).

b. A traveler whose residence is other than the office domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence.

c. The official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interests of the agency and not for the convenience of the person.

Out-of-state Travel—travel to any of the other 49 states plus District of Columbia, Puerto Rico and the Virgin Islands.

Per Diem—a flat rate paid in lieu of travel reimbursement for people on extended stays.

State Employee—employees below the level of state officer.

State Officer—

a. state elected officials;

b. department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, undersecretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

Temporary Assignment—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period—a period of time between the time of departure and the time of return.

Travel Routes—the most direct and usually traveled route must be used by official state travelers. All mileage shall be computed on the basis of odometer readings from point of origin to point of return.

Traveler—a state officer, state employee, or authorized person when performing authorized travel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7.7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 22:

Subchapter C. Methods of Transportation

§1508. Cost-effective Transportation

The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, cost of operation of a vehicle, cost and availability of common carrier services, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7.7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 22:

§1509. Air

A.- D.4. ...

E. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by employee.

F. Companion fares when purchased for a state employee and non-state employee, reimbursement to the state employee will be the amount of the lowest logical fare.

G. Contract airfares are to be booked only through the state's contracted travel agencies and are to be used for official state business. Contract airfares alleviate penalties and restrictions. These fares cannot be used for personal/companion or spouse travel.

H. Traveler is to use the lowest logical airfare whether the plane is a prop or jet.

I. Frequent flyer miles accumulated from official state business must be used to purchase tickets for official business. Each individual is solely responsible for notification to their agency or department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:821 (October 1989), LR 16:967 (November 1990), LR 22:

§1511. Motor Vehicle

A. - B.1.e. ...

2. Personally-Owned Vehicles

a. ...

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of 26 cents per mile.

c. ...

d. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel, the traveler will be reimbursed for in-route expenses inclusive of meals, lodging, and mileage on the basis of 26 cents per mile. The total cost of the mileage may not exceed the cost of travel by state contract air rate or coach rate if no contract rate is available.

2.e. - 3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:821 (October 1989), LR 16:968 (November 1990), LR 22:

Subchapter D. Lodging and Meals

§1515. Reimbursement

A. - B.2. ...

C. Meals (including tips)

1. Travelers may be reimbursed up to the following amounts for meals:

	IN-STATE	O/S (Incl. N.O.)	HIGH COST	EXTRA HIGH COST
Breakfast	\$ 5	\$ 6	\$ 7	\$ 8
Lunch	\$ 7	\$ 8	\$ 9	\$ 10
Dinner	\$ 12	\$ 14	\$ 16	\$ 18
TOTAL	\$ 24	\$ 28	\$ 32	\$ 36

2. Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. If meals of state officials exceed these allowances, receipts are required.

3. Cost of meals served in conjunction with state sponsored in-state conferences (may not exceed the following including tax):

- a. lunch in-state excluding New Orleans—\$10;
- b. lunch - New Orleans—\$12.

4. Refreshment expenditures for a meeting, conference or convention are to be within the following rates:

- a. served on state property—not to exceed \$2.00 per person, per morning and/or afternoon session;
- b. served on hotel properties—not to exceed \$3.50 per person, per morning and/or afternoon sessions.

D. Lodging (plus tax, receipts required)

Actual-not to exceed:

- \$50—in state;
- \$55—Baton Rouge, Monroe;
- \$60—Bossier, Lake Charles, Shreveport;
- \$70—New Orleans;*
- \$60—out-of-state (except those listed)
- \$90—high cost (Baltimore, Atlanta, Cleveland, Dallas, Denver, Detroit, Houston, Miami, Philadelphia, Phoenix, Pittsburgh, San Diego, St. Louis, San Antonio, Seattle, all of Hawaii);*
- \$105—extra high cost (Boston, Chicago, Los Angeles, San Francisco, Washington, D.C.);*
- \$140—New York City.*

*The inclusion of suburbs of these cities shall be determined by the department head on a case-by-case basis.

E. Conference Lodging. Travelers may be reimbursed expenses for conference lodging not to exceed the following rates per day. Receipts from a bona fide hotel or motel for lodging shall be submitted and attached to the travel voucher. Where multi-hotels are offered in conjunction with a conference, traveler shall seek to utilize the least expensive.

- \$60—in-state(except those listed);
- \$70—Baton Rouge, Bossier, Lake Charles, Shreveport;
- \$80—New Orleans;*
- \$140—all other out-of-state.*

*The inclusion of suburbs of these cities shall be determined by the department head on a case-by-case basis.

F. Extended Stays. For travel assignments involving duty for extended periods at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

AUTHORITY NOTE; Promulgated in accordance with R.S. 39:231

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:822 (October 1989), LR 16:969 (November 1990), LR 22:

Subchapter E. Other Expenses

§1517. Reimbursement for Other Expenses

The following expenses incidental to travel may be reimbursed:

1. Communications expenses relative to official state business. (receipt required for over \$3). Employees on domestic overnight travel status can be reimbursed up to \$3 for one call home upon arrival at their destination and a call every second night after the first night if the travel is extended several days. Employees on international travel can be reimbursed calls to their home for a maximum of five minutes per call for a maximum of two calls per trip (within the first 24 hours of the trip) and one call to confirm return schedule (within the last 24 hours of the trip).

2.-6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:822 (October 1989), LR 16:970 (November 1990), LR 22:

§1521. International Travel

A. ...

B. International travelers will be reimbursed the extra high-cost rates for lodging and meals, unless U.S. State Department rates are requested and authorized by the commissioner of administration prior to departure. Receipts are required for lodging and for meals over the allowed rates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:407 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:823 (October 1989), LR 16:971 (November 1990), LR 22:

All interested persons are invited to submit written comments on the proposed amendments. Comments should be submitted no later than May 20, 1996, at 4:30 p.m., to Edna Fisher, Director, State Travel Department, Box 94095, Baton Rouge, LA 70804 or to FAX number (504) 342-8688.

Mark Drennen
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General Travel—PPM 49

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- State travel reimbursement rates are being increased as follows: mileage from 24 cents to 26 cents, meals will increase approximately 9 percent and lodging approximately 20 percent. Although it would appear that total state travel costs would increase in a corresponding manner to the increases stated above, the Division of Administration indicates that, in their opinion, total state travel cost increases associated constraints

on travel which will result in fewer trips being taken. However, the Division of Administration cannot estimate the increase that may occur due to lack of detailed information on travel expenditures in the categories shown above.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
- Private travel agencies handling state travel business may be affected due to fewer trips being taken at state expense.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
- There will be no effect on competition or employment by this rule change.

Edgar Jordan
Assistant Commissioner
9604#039

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals Board of Licensed Professional Vocational Rehabilitation Counselors

Requirements and Renewal of License (LAC 46:LXXXVI.703)

The Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, under authority of the Louisiana Rehabilitation Counselor Licensing Act, R.S. 37:3441-3452 of the 1988 Legislature and R.S. 36:259(E)(21), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., proposes to amend LAC 46:LXXXVI.703 governing the practice of rehabilitation counseling.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXVI. Licensed Professional Vocational Rehabilitation Counselors Board of Examiners Chapter 7. Requirements for Licensure and Renewal of License

§703. Requirements

A.-D. ...

E. Has received a Master's Degree in vocational rehabilitation counseling or related field and two years of experience under the direct supervision of a licensed vocational rehabilitation counselor or a Bachelor's Degree in vocational rehabilitation counseling or related field and five years of work experience, working under the direct supervision of a licensed vocational rehabilitation counselor. An applicant may subtract one year of the required professional experience for successfully completing Ph.D. requirements in a rehabilitation counseling program acceptable to the board. However, in no case, may the

applicant have less than one year of the required professional experience. Effective on the date this amended rule is promulgated, in order to meet the requirements of licensure, one must have a degree in vocational rehabilitation counseling or an approved related degree as listed in Section A below:

Section A:

- Clinical or Counseling Psychology;
- Professional Guidance & Counseling;
- Rehabilitation Studies (O.T. and P.T. excluded);
- Special Education (as determined by the board).

The board will consider as a feasible alternative to a vocational rehabilitation degree, a related degree as listed in Section A which includes 42 hours of qualifying courses from an accredited college or university which meet the academic and training content established by the board and listed in Section B below. Both Section A and Section B are at the discretion of the board.

Section B:

	HOURS
Orientation of Vocational Rehabilitation	3
Statistics	3
Medical and/or Psycho-Social Terminology of Disabilities Relative to Vocational Performance	3
Psychological & Social Effects of Disabilities Tests and Measurements	3
Occupational Information and/or Job Placement and Job Development	3
Analysis of the Individual	3
Theories of Personality	3
Theories and Techniques of Counseling	6
Demonstrations and Practice of Counseling	3
Field Work or Practicums	9-12
Psychiatric Disorders and/or Substance Abuse	3
Vocational Analysis or Assessment of Persons with Disabilities	3
Introduction to Psychology	3
Abnormal Psychology	3
Introduction to Sociology	3
Developmental Psychology (Adult or Adolescent)	3
Ethics of Counseling	<u>3</u>
	66

A candidate for licensure must have 42 of the 66 hours enumerated, completing each course with a "C" or better. Any substitutions of similar course work will be limited and at the discretion of the board. As of the date this amended rule is promulgated, anyone possessing an unrelated degree, not specific in the above text, will not be accepted even if they pursue additional course work. Should they obtain an additional degree in the related areas as specified in Section A above, this will be considered.

1.-1.b.ii. ...

iii. The LRC supervisor as opposed to the work supervisor may supervise no more than three persons at any one time unless the supervisor has no other caseload responsibilities, in which case he/she may supervise up to five counselors.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 19:1570 (December 1993), amended LR 22:

Interested persons may also submit oral or written data, views, comments, or arguments no later than May 12, 1996 to: Larry S. Stokes, Chairperson; Box 41594; Baton Rouge, LA 70835-1594.

A public hearing will be held on this matter at 10 a.m. on Saturday, May 25, 1996 at the Ramada Hotel, 1480 Nicholson Drive, Baton Rouge, LA.

Larry S. Stokes
Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Board By-laws**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The board operates at no cost to the state, by collecting fees from granting licenses to qualified vocational rehabilitation counselors.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no change in revenue collections due to these rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
It is estimated there will be no change in costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This is designed to further ensure competence and professionalism.

Steven H. Deist
Vice Chairperson
9604#019

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Bacteriological Laboratory Certification

(Editor's Note: The following Notice of Intent is being republished to include certain text which was erroneously omitted when published on pages 247-248 of the March, 1996 Louisiana Register. The Office of Public Health intends to continue with rulemaking, as provided for in R.S. 49:950 et seq., using March 20, 1996 as the rule proposal date. There are no changes to the Fiscal and Economic Impact Statement.)

In accordance with R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to

establish a certification program to approve private laboratories to provide bacteriological analytical services needed to aid owners of individual water supplies in Louisiana in assuring that drinking waters are bacteriologically safe.

Because no funding has been allocated for this certification program and no fee is currently being collected for provision of the service, this program will be implemented pursuant to a prioritization of functions within the Division of Laboratories and to the extent permitted by current funding and staff resources. Higher priority workload activities will be accomplished first. The Division of Laboratories will consider each request for certification by a private laboratory in the order in which the requests are received, with prioritization given to the need for bacteriological analytical services in the particular locale. Each individual will be responsible for paying the private laboratory for the analytical services provided.

Laboratories seeking certification pursuant to this proposed rule will be certified in accordance with regulations contained in a proposed Department of Health and Hospitals manual for the certification of laboratories analyzing drinking water. A copy of the proposed manual will be available for inspection at the following locations:

REGION I	Metropolitan	3308 Tulane Avenue Fifth Floor New Orleans, LA 70119
REGION II	Capitol	1772 Wooddale Boulevard Baton Rouge, LA 70806
REGION III	Tech	206 East Third Street Drawer 1369 Thibodaux, LA 70301
REGION IV	Acadian	825 Kaliste Saloom, Suite 100 Lafayette, LA 70508
REGION V	Southwest	4240 Legion Street Box 16826 Lake Charles, LA 70615
REGION VI	Central	1335 Jackson Street Box 4207 Alexandria, LA 71301
REGION VII	Northwest	Allen Memorial State Office Building Fifth Floor 1525 Fairfield Avenue Shreveport, LA 71101-4388
REGION VIII	Northeast	2913 Betin Street Box 6118 Monroe, LA 71201
REGION IX	Southeast	520 Old Spanish Trail Slidell, LA 70459

Interested persons may submit written comments to: Dr. Henry Bradford, Laboratory Director, DHH/OPH, Box 60630, New Orleans, LA 70160. Such comments will be received until the close of business April 28, 1996. A public hearing

on the proposed change will be held at 10:30 a.m., April 24, 1996, in the State Office Building Conference Room, 150 Third Street, Baton Rouge, LA 70802. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bacteriological Laboratory Certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on local governmental units. The bacteriological certification program will be implemented to the extent funding and staffing resources permit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that 15 laboratories will seek certification under this program. It is anticipated that these laboratories will request certification for both Total Coliform, FecalE. coli and heterotrophic plate count analyses. There is currently no fee in place for certifying these laboratories. At the earliest opportunity, authorization for the collection of fees relative to the certification program will be requested.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Individual with new or rebuilt domestic well that must test their drinking water and contract laboratories providing the analytical services are affected by this rule. It is not possible to estimate how many individual need testing done, and how much the laboratories will charge for their analytical services.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition between laboratories to provide these analytical services will drive the price of the analysis down which benefits the individual paying for the testing. Employment opportunities in the laboratories may increase as a result of this rule.

Bobby P. Jindal
Secretary
9604#032

Richard W. England
Assistant to the Legislative
Fiscal Officer

NOTICE OF INTENT

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

**Sanitary Code—Mechanical Wastewater Treatment for
Individual Homes (Chapter XIII)**

In accordance with R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the State Health Officer is proposing that the following amendment to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes-Acceptable Units" be made:

Amend the listing to include additional manufacturer and associated plant model specified as follows:

Manufacturer	Plant Designation	Rated Capacity
Murphy Cormier General Contractor, Inc. 2885 Highway 14 East Lake Charles, LA 70605 (318) 474-2804	"Hoot" H-500A H-1000A	500 GPD 1000 GPD
Southern Manufacturing Co P. O. Box 3615 Port Arthur, TX 77640 (800) 992-4501	"Southern Aerobic System" S.M. 500	500 GPD

The specified change is in compliance with the requirements set forth in Section 6.6 of Appendix A of Chapter XIII of the State Sanitary Code.

Comments regarding the proposed rule should be addressed to C. Russell Rader, P.E., Chief Engineer, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160.

A public hearing will be held on May 30, 1996 at 1 p.m. in the Fourth Floor Conference Room, Department of Transportation and Development Annex Building, 1201 Capitol Access Road, Baton Rouge, LA to hear comments on the proposed rule.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code—Mechanical Wastewater
Treatment for Individual Homes**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The consumer will be afforded a wider selection of products, thus enhancing competition and possibly resulting in reduced costs for the related products and services to the consumer.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition will be stimulated by the presence of the new product. Effect on employment cannot be estimated.

Eric T. Baumgartner, M.D., M.P.H.
Assistant Secretary
9604#050

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Coverage for Reduction Mammoplasty Services

The Department of Health and Hospitals, Bureau of Health Services Financing is proposing to adopt the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act.

The bureau provides coverage for reduction mammoplasty based on appropriate medical documentation supporting medical necessity. This service has been provided since 1977. The following policy has not previously been promulgated under the Administrative Procedure Act. The bureau now seeks to establish appropriate criteria for this service under the Administrative Procedure Act and is proposing the following rule for adoption under the act.

Proposed Rule

The Bureau of Health Services Financing proposes to adopt the following criteria to govern the provision of reduction mammoplasty services under the Medicaid Program.

I. Approval Requirements

A. Qualifying Condition. The recipient must meet the following weight and height criteria before the provider is to submit a request for evaluation and consideration for reduction mammoplasty services. The recipient's total weight shall not exceed 20 percent of the weight limit established by the following formula.

Height	Pounds
5 feet	100
Each additional inch over 5 feet	5

For example: A request for reduction mammoplasty services shall not be submitted for consideration for a recipient who is 5 feet tall who weighs more than 120 pounds (100 pounds plus 20 percent). A person who is 5 feet, 1 inch tall shall weigh no more than 126 pounds (105 pounds plus 20 percent) to be considered. A recipient who is 5 feet, 5 inches tall shall weigh no more than 150 pounds (125 pounds plus 20 percent) to be considered.

B. Prior Authorization

1. If the qualifying condition stated above is met, providers may then submit a request for prior authorization for reduction mammoplasty upon which the determination of medical necessity will be made.

2. The following documentation must accompany the request for the prior authorization of reduction mammoplasty services:

- a. posterior photo view of the shoulder straps areas;
- b. frontal photo of chest with face blocked;
- c. lateral photo of chest and;
- d. number of grams of breast tissue to be removed from each breast.

II. Payment Requirements

The pathology report and the PAG1 or the PA approval letter must be attached to the claim submitted for payment to the fiscal intermediary. The HCFA 1500 claim form cannot be electronically transmitted. The claim will be denied payment if the above requirements are not attached to the claim.

Interested persons may submit written comments to the following address. Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, La 70821. He is responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter on Wednesday, May 22, 1996 at 9:30 a.m. in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Reduction Mammoplasty Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of this proposed rule will result in increased expenditures for SFY 1996 of approximately \$300 for administrative costs for the promulgation of this proposed rule and approximately \$27,168 for the services provision. The services cost is ongoing as these services have been provided. It is estimated that services provision cost for SFY 1997 and 1998 will be \$27,983 and \$28,822.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that federal revenue collections will increase approximately by \$19,681 for SFY 1997, by \$20,117 for SFY 1998, and by \$20,729 for SFY 1999.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that there will be no impact on the medical professionals associated with these services as a result of this proposed rule since these services are currently being provided.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9604#045

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Nursing Facility Services—Standards for Payment (LAC 50:II.Chapter 101)

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

The Bureau of Health Services Financing proposes to adopt the following provisions for inclusion in the rule entitled "Nursing Facility Services Standards for Payment" and adopted on January 20, 1996 (*Louisiana Register*, Volume 22 Number 1). These provisions were received as recommendations for inclusion in the rule cited above but were inadvertently omitted or inaccurately incorporated.

Title 50

PUBLIC HEALTH - MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter A. Abbreviations and Definitions

§10101. Definitions

* * *

Assistant Director of Nursing (ADON)—a licensed nurse responsible for providing assistance to the director of nursing (DON) in a nursing facility with a licensed bed capacity of 101 or more.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 22:

§10121. Nursing Services

* * *

C. Assistant Director of Nursing. If the director of nursing has administrative responsibilities or the nursing facility has a licensed bed capacity of 101 or more, the facility shall have a full-time assistant director of nursing (ADON). This individual shall be an RN or LPN. If the ADON is an LPN, the LPN must have two years experience in a long-term care setting. A nursing facility with a licensed bed capacity of 161 or more beds must employ an RN as assistant director of nursing.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 22:

Subchapter I. Resident Rights
§10161. General Provisions

M. Specific Rights

2. Privacy and Confidentiality

i. Access and Visitation Rights. The resident has the right and the facility must provide immediate access by any resident to the following:

ix. visiting overnight outside the facility with family and friends in accordance with the facility policies, physician's orders, and Title XVIII (Medicare) and Title XIX (Medicaid) regulations without the loss of their bed. Home visit policies and procedures for arranging home visits shall be fully explained.

(b). The facility must allow certified representatives of the state ombudsman to examine a resident's clinical records with the permission of the resident or the resident's legal representative and consistent with state law.

Q. Freedom from Restraints and Abuse. Residents shall have the right to be free from verbal, sexual, physical or mental abuse, corporal punishment, involuntary seclusion, and any physical and chemical restraints imposed for the purpose of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed:

3. in case of an emergency, physical restraint may only be applied by a qualified licensed nurse who shall document in the medical record the circumstances requiring the necessity for the use of restraint. The physician shall be notified immediately thereafter;

5. psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care) designed to eliminate or modify the symptoms for which the drugs are prescribed;

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 22:

Subchapter J. Transfer and Discharge Procedure
§10163. General Provisions

E. For health facilities the written notice as described in §10163 must include the following:

4. a statement regarding appeal rights that reads, "You have the right to appeal the health facility's decision to transfer you. If you think you should not have to leave this facility, you may file a written request for a hearing postmarked within 30 days after you receive this notice. If you request a hearing, it will be held within 30 days after you receive this notice, and you will not be transferred from the

facility until the hearing is held and a decision is rendered unless the facility is authorized to transfer you as described in §10163.D.1. If you wish to appeal this transfer or discharge, a form to appeal the health facility's decision and to request a hearing is attached. If you have any questions, call the Louisiana Department of Health and Hospitals at the number listed below.";

F. Appeal of Transfer or Discharge

1. If the resident appeals the transfer or discharge, the nursing facility may not transfer or discharge the resident until the appeal is heard and a decision is rendered unless an emergency exists as described in §10163.D.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 22:

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter at 9:30 a.m. Wednesday, May 22, 1996, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day of the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facility Services—Standards for Payment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will increase state costs by approximately \$500 for SFY 1996 but no costs are anticipated for SFY 1997 and for SFY 1998.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will increase federal revenue collections by approximately \$250 for SFY 1995-96 but no revenues are anticipated for SFY 1997 and for SFY 1998.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Thomas D. Collins
Director
9604#046

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Family Support

Food Stamp Program—Deduction of IRS Processing Fee (LAC 67:III.2005)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part I, Subpart 3, Food Stamps.

The agency currently refers certain delinquent Food Stamp claims to the Internal Revenue Service (IRS) for the purpose of offsetting federal income tax refunds. In compliance with 7 CFR 273.18 (g)(5)(iv)(C), beginning with the 1997 offset year which affects tax returns from prior years, the IRS processing fee will be added to the amount of the delinquent claim and that amount will be deducted from the individual's tax refund. The processing fee has previously been paid by the agency. Advance rulemaking is needed because the agency is required to notify individuals of claim actions at least 60 days in advance.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

* * *

D. The agency may collect any type of overissuance by using means other than allotment reduction or cash repayment. One of these means is the referral to the Internal Revenue Service of delinquent food stamp claims of previous food stamp recipients for the purpose of offsetting federal income tax refunds. Effective with the 1997 offset year, the IRS processing fee will be added to the claim and that amount will also be deducted from the individual's income tax refund.

E. Before the agency takes action to reduce a household's allotment in order to recover overissued benefits, the household may elect to repay the benefits.

1. The household responsible for overissuance due to an intentional program violation is allowed 10 days to choose between cash repayment or a reduced allotment.

2. The household responsible for overissuance due to an inadvertent error by the household is allowed 20 days to choose between cash repayment or a reduced allotment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:898 (August 1994), LR 22:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Deputy Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on May 28, 1996 in the second floor auditorium at the Department of Social Services, 755 Third Street, Baton Rouge, LA at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Food Stamp Program—Deduction of IRS Processing Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
An annual savings to state government of \$8,900 - \$9,900 will result when certain individuals, owing food stamp debts that are referred to the IRS for collection, will become responsible for the processing fee charged by IRS. In prior years the fee was paid by the state with additional matching federal funds.
The only implementation costs for the state will be the cost of publishing the rule and the printing of the policy revisions for staff. There is no cost to local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Since the agency will no longer expend funds to pay the IRS collection fee, it will no longer collect the 50 percent matching federal funds.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Beginning with the 1997 offset year, the IRS processing fee of approximately \$10 will be added to each claim being referred for offset, and that amount will also be deducted from the affected individual's tax refund.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no effect on competition and employment.

Howard L. Prejean
Deputy Assistant Secretary
9604#043

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Treasury Louisiana Housing Finance Agency

HOME-Affordable Rental Housing Program (LAC 16:Chapter 1)

In accordance with R.S. 49:51 et seq., the Louisiana Housing Finance Agency is proposing to amend the regulations governing the criteria used to award HOME funds

to affordable rental housing projects. The purpose of the amendment is to revise the categories in which the projects may be awarded points toward selection for the award of HOME funds.

**Title 16
COMMUNITY AFFAIRS**

Part II. Housing Finance Agency

**Chapter 1. HOME Investment Partnership Program
§ 105. Selection Criteria to Award HOME Funds for Affordable Rental Housing**

Applications for HOME Funds will be rated in accordance with the selection criteria (Appendix IX) for which the applicant must initially indicate that the project qualifies.

APPENDIX IX

Selection Criteria to Award HOME Funds to Affordable Rental Housing Projects

The applicant hereby requests priority consideration based upon the project satisfying one or more of the following conditions (minimum threshold of 75 points required):

POINTS

**(A) Leverage Ratio for Each HOME Dollar
Minimum Other Dollars**

\$1	0
\$2	20
\$3	25
\$4	30
\$5	35
\$6	40
\$7	45
\$8	50

(B) Project to re-construct or rehabilitate substandard housing units to minimum quality standards with total funds per unit not exceeding:

\$ 2,500	50
\$ 5,000	40
\$ 7,500	30
\$10,000	20
\$15,000	10

(C) Project to rehabilitate housing units of historic or architectural significance: 25

(D) Project to rehabilitate or create housing units serving special needs groups (check one or more):

- Elderly/Handicapped _____
- Homeless _____
- Physically Disabled _____
- Mentally Disabled _____
- HIV/AIDS _____

- (i) One hundred percent of units serve or fifty units serve special needs group 25
- (ii) Fifty percent or 25 units serve special needs group 15
- (iii) Twenty-five percent or 15 units serve special needs group 10

(E) Project serves large families percentage of units having four or more bedrooms:

- (i) 5 percent but less than 10 percent 10
- (ii) 10 percent but less than 15 percent 15
- (iii) 15 percent but less than 20 percent 25
- (F) Project involves lease to own program 50

(G) Project located in qualified census tract/difficult to develop:

Area or RECD target area 50

(H) Project to provide supportive services (attach description of supportive services to be provided and identify source of funding) 40

(I) Developer fees are less than 10 percent of total development cost under subsidy:

Layering review guidelines 25

(J) Project involves local nonprofit or CHDO as co-developer: 25

TOTAL _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July, 1993). amended LR 21:21:959 (September, 1995), LR 22:

Any interested person may submit written comments regarding the contents of the proposed rule to V. Jean Butler, President, Louisiana Housing Finance Agency, 200 Lafayette Street, Third Floor, Baton Rouge, LA 70802. All comments must be received no later than 4:30 p.m., May 20, 1996.

V. Jean Butler
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: HOME Funds**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This change will have no measurable impact to state agency fiscal operations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This change will have no effect on revenue collections for state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Low income persons and large families will receive the economic benefit of more affordable housing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of this proposed rule on competition and employment is anticipated.

V. Jean Butler
President
9604#047

Richard W. England
Assistant to the
Legislative Fiscal Officer

Administrative Code Update

CUMULATIVE ADMINISTRATIVE CODE UPDATE January - March, 1996

LAC Title	Part.Section	Effect	Location LR 22 Month Page				
4	III.Chapter 1	Amended	Jan 22	48	I.2303	Amended	Jan 29
10	XV.Chapter 9	Amended	Mar 187	55	I.2438-2444	Amended	Jan 30
25	VII.2105	Amended	Jan 12	61	I.2446,2449	Adopted	Jan 31
28	I.105	Amended	Feb 99	67	I.3945	Adopted	Mar 216
33	III.209,211,215	Amended	Jan 17	70	V.12314	Adopted	Jan 25
	III.2117	Repromulgated	Jan 14		VII.317	Amended	Feb 116
	III.3260,3264	Amended	Jan 17		I.4905	Adopted	Jan 35
	III.6115,6117	Adopted	Jan 15		V.Chapters 3-35	Amended	Feb 117
	V.5125-5129,5141	Amended	Jan 18		III.2524	Adopted	Mar 224
	V.Chapter 11	Amended	Jan 20		III.2527	Amended	Feb 118
	V.4115,4139	Amended	Jan 21		III.2540	Adopted	Feb 118
	V.4139	Repromulgated	Feb 100		III.2543	Adopted	Mar 223
	V.Chapter 22	Amended	Jan 22		III.2703	Adopted	Feb 117
	VII.529	Amended	Jan 18		III.2705	Adopted	Feb 118
	IX.1307,1309	Amended	Jan 19		III.2751,2753	Amended	Feb 117
	XI.307	Amended	Jan 19		VII.Chapter 21	Adopted	Feb 119
	XV.2505,2509,2511	Amended	Jan 19		I.101-113	Amended	Mar 224
35	I.1507	Amended	Jan 12	73	I.Chapter 2	Amended	Mar 228
	III.5736	Adopted	Jan 13	76	III.301-313	Repealed	Mar 228
	V.6353	Amended	Jan 13		III.Chapter 21	Adopted	Mar 228
	XI.9905	Repealed	Jan 13		I.Chapters 5-19	Amended	Feb 120
	XIII.11115	Amended	Jan 13		VII.181	Adopted	Mar 231
40	I.105	Amended	Mar 221		VII.341	Amended	Mar 238
	I.109	Amended	Mar 221		VII.343	Amended	Mar 236
	I.107	Repealed	Mar 221		VII.349	Amended	Mar 233
	I.Chapter 17	Adopted	Mar 222		VII.403	Adopted	Mar 240
	I.Chapter 19	Amended	Mar 222		VII.405	Adopted	Mar 237
	III.107	Amended	Jan 34		VII.515	Adopted	Feb 120
	III.301-307	Adopted	Jan 35		XVII.101	Adopted	Mar 235
42	I.1789	Amended	Feb 110		XVII.301	Adopted	Mar 231
	I.1791	Adopted	Feb 111				
46	XXVII.Chap.3-7	Amended	Mar 191				
	XXVII.Chapter 9	Adopted	Mar 193				
	XXIX.1501-1509	Adopted	Feb 94				
	XXXIII.105	Amended	Jan 23				
	XXXIII.106	Adopted	Jan 24				
	XXXIII.301,306	Amended	Jan 23				
	XXXIII.503	Amended	Jan 22				
	XXXIII.701,706	Amended	Jan 22				
	XXXIII.708	Adopted	Jan 23				
	XXXIII.907,919	Amended	Jan 24				
	XXXIII.1611-1615	Amended	Jan 21				
	XLV.301-431	Amended	Mar 207				
	XLV.Chap.15,45	Amended	Mar 201				
	XLV.Chapter 111	Adopted	Mar 195				

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Annual Plant Quarantine List (LAC 7:XV.Chapter 95)

In accordance with LAC 7:XV.9507 and 9509, we are hereby publishing the annual quarantine.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 95. Crop Pests and Diseases

In accordance with LAC 7:XV.9507 and 9509, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina, South Carolina and Texas.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

ARIZONA

(1) Generally infested area: the entire state.

CALIFORNIA

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

MISSOURI

(1) Generally infested area: None

(2) Suppressive area: The entire counties of: Dunklin and Madrid.

NEVADA

(1) Generally infested area: The entire counties of Clark and Nyle.

(2) Suppressive area: None.

NEW MEXICO

(1) Generally infested area: The entire state.

OKLAHOMA

(1) Generally infested area: The entire state.

TENNESSEE

(1) Generally infested area: None

(2) Suppressive area: The entire counties of Dyer and Lauderdale.

TEXAS

(1) Generally infested area: The entire state.

3.0 Phytophagous Snails

The states of California and Arizona.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The states of Florida and Texas.

6.0 Sweet Potato Mosaic

The states of Alabama and Georgia and any other state which may hereafter be found to be infected with sweet potato mosaic; and all other states which do not maintain restrictions against the movement of regulated products from the quarantined area.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

ARKANSAS

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, IZard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

ILLINOIS

Entire state.

INDIANA

Entire state.

IOWA

Entire state.

KANSAS

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

KENTUCKY

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

MARYLAND

Infected Counties: Allegany, Frederick, Garrett, and Washington.

MICHIGAN

Infected counties: Barry, Barrien, Calhoun, Cass, Clare,

Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

MINNESOTA

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

MISSOURI

Entire state.

NEBRASKA

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

NORTH CAROLINA

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

OHIO

Entire state.

OKLAHOMA

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

PENNSYLVANIA

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

SOUTH CAROLINA

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

TENNESSEE

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

TEXAS

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

VIRGINIA

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

WEST VIRGINIA

Infected counties: all counties except Tucker and Webster.

WISCONSIN

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

ALABAMA

Entire state.

ARKANSAS

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

FLORIDA

Entire state.

GEORGIA

Entire state.

KENTUCKY

County of McCracken.

LOUISIANA

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

MISSISSIPPI

Entire state.

MISSOURI

County of Dunklin.

NORTH CAROLINA

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

SOUTH CAROLINA

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

TENNESSEE

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

TEXAS

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (*Xanthomonas axonopodis* pv. *Citri*)

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0 Pine Shoot Beetle [*Tomicus piniperda* (L.)]

ILLINOIS

Counties of Cook, Champaign, DuBage, Grundy, Iroquois, Kane, Kankakee, Kendall, Lake, Livingston, McHenry, Will, Winnebago and Vermillion.

INDIANA

Counties of Adams, Allen, Benton, Blackford, Cass, Dekalb, Delaware, Elkhart, Fulton, Grant, Huntington, Jasper, Jay, Kosciusko, Lagrange, Lake, La Porte, Marshall, Miami, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Tippecanoe, Wabash, Wells, White, and Whitley.

MARYLAND

County of Allegany.

MICHIGAN

Counties of Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clare, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Ionia, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Montcalm, Oakland, Saginaw, Sanilac, St. Clare, St. Joseph, Shiawassee, Tuscola, Van Buren, Washtenaw, and Wayne.

NEW YORK

Counties of Allegany, Cattaraugus, Chautauqua, Erie, Genessee, Livingston, Monroe, Niagara, Ontario, Orleans, Oswego, Steuben and Wyoming.

OHIO

Counties of Ashland, Ashtabula, Cameron, Carroll, Columbiana, Crawford, Cuyahoga, Delaware, Erie, Fulton, Geauga, Holmes, Huron, Knox, Lake, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Tuscarawas, Wayne, Williams, Wood and Wyndot.

PENNSYLVANIA

Counties of Allegheny, Armstrong, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango, Warren and Westmoreland.

WEST VIRGINIA

County of Hancock.

Any other areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

Bob Odom
Commissioner

9604#020

POTPOURRI

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

Title V Application Submittals

Considering the number of Title V permit applications already submitted and processed over the last 18 months, we expect to receive enough additional applications on or before April 1 to meet the one-third requirement of the act. We recognize that a relatively small number of oil and gas sources will not be able to meet the April 1, 1996 deadline, and that some sources may not recognize the need to obtain a Title V permit until after the April 1 deadline has passed. Because the only reason for the early call submittals was to allow the department to reasonably distribute the permit processing workload and to meet the statutory mandate for issuance of one-third of the permits by October 1996, we see no reason to subject facilities to the April 1 deadline in such cases. Facilities that, for compelling reasons, will not be able to meet the April 1 submittal date will therefore be granted a 90-day extension.

Tim B. Knight
Administrator

9604#056

POTPOURRI

Department of Environmental Quality
Office of Legal Affairs and Enforcement
Investigations and Regulation Development Division

Semiannual Regulatory Agenda

The Department of Environmental Quality wishes to announce the availability of the spring 1996 edition of the Semiannual Regulatory Agenda prepared by the Investigations and Regulation Development Division. The current agenda contains information on rules which have been proposed but have not been published as final and rules which are scheduled to be proposed in 1996. Check or money order in the amount of \$1.96 is required in advance for each copy of the agenda. Interested persons may obtain a copy by contacting Lana Guidry, Department of Environmental Quality, Office of Legal Affairs and Enforcement, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884-2282 or by calling (504) 765-0399.

Tim B. Knight
Administrator

9604#055

POTPOURRI

Department of Health and Hospitals
Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, June 1, 1996 at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5190.

Dawn Scardino
Executive Director

9604#021

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	Well Name	Well Number	Serial Number
Walter M. Caldwell III	Monroe	Caldwell	001	152760
Eclipse Petroleum Corporation	Abbeville	5400 RA SUA;M M Sellers	001	141378
Eclipse Petroleum Corporation	Abbeville	5100 RA SUA;M Sellers	002	167096
Rio Bravo Oil Company	South Bosco	Phillip Melancon	002	197253
Rio Bravo Oil Company	South Bosco	NS 3 RA SUA;W P Larcade	001	143343
Scooter's Drilling Service	Red River-Bull Bayou	E B Robinson B	002	067201
State Exploration Co.	Wildcat	LL&E	001	111446
Texas Crude	Bully Camp	Waterford Oil Co B	002	086409

George L. Carmouche
Commissioner of Conservation

9604#059

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Commercial Facility Application Hearing

Pursuant to the provisions of the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the commissioner of conservation will conduct a hearing at 6 p.m., Thursday, May 23, 1996, in the Vermilion Parish

Courthouse, Court Room 1, located on the second floor in Abbeville, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Scurlock Permian Corporation, Box 4648, Houston, TX 77210-4648. The applicant intends to construct and operate a commercial nonhazardous oilfield waste treatment facility in Section 52, Township 12 South, Range 03 East, approximately one mile from Abbeville, LA.

The application is available for inspection by contacting Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 257 of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA or by visiting the Vermilion Parish Police Jury Office or the Parish Library in Abbeville, LA. Verbal information may be received by calling Mr. Catrou at (504)342-5567.

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., May 31, 1996, at the Baton Rouge office. Comments should be directed to the Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA 70804, Re: Docket No. IMD 96-06, Commercial Facility, Cameron Parish.

George L. Carmouche
Commissioner

9604#058

POTPOURRI

**Department of Revenue and Taxation
Severance Tax Division**

Severance Tax Rate on Natural Gas

Pursuant to the authority granted by R.S. 47:633(9)(d)(ii), the Department of Natural Resources has determined the "gas base rate adjustment" for the 12-month period ending March 31, 1996, to be 1.0938. Accordingly, the Department of Revenue and Taxation has determined the severance tax rate on natural gas and related products described in R.S. 47:633(9)(a) to be 7.7 cents per thousand cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit, effective July 1, 1996. This rate was derived by multiplying the "gas base rate adjustment" by seven cents.

The reduced rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

The determination of this "gas base rate adjustment" and corresponding tax rate and their "publication in the *Louisiana Register* shall not be considered rulemaking within the

intendment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953." Thus, neither a fiscal impact statement nor a notice of intent is required.

Questions should be directed to Linda Denney, Director of the Severance Tax Division by telephone at (504) 925-7497.

John Neely Kennedy
Secretary

9604#054

POTPOURRI

Department of Social Services Office of Community Services

1996-97 Weatherization Assistance Program Public Hearing

The Department of Social Services, Office of Community Services is submitting a State Plan to the U.S. Department of Energy for funding of the 1996-97 Weatherization Assistance Program (funding period—April 1, 1996 through March 31, 1997). Pursuant to federal regulations (10 CFR 440) a public hearing is required prior to DOE's approval of the plan.

The Weatherization Assistance Program (WAP) provides services to low-income households and in particular households in which elderly, handicapped and/or children reside. The purposes of weatherization activities are to:

- a) reduce home heating and cooling costs of low-income households;
- b) to provide a more comfortable and safe home environment for low-income residents; and
- c) to help reduce the consumption of fossil fuels.

Louisiana's grant for the 1996-97 program year is \$155,419.00, approximately nine percent of the 1995-96 award. Any additional Department of Energy funds which may become available during the 1996-97 program year will be expended according to the approved State Plan.

The public hearing is scheduled for Tuesday, April 30, 1996 at 1 p.m. in Baton Rouge, at 333 Laurel Street, Room 803 (eighth floor conference room). Written comments will be accepted, at the address below, through May 10, 1996.

Copies of the plan may be obtained prior to the hearing by writing to the Department of Social Services, Office of Community Services, Box 3318, Baton Rouge, LA 70821 or by contacting the office by telephone at (504) 342-2763.

Madlyn B. Bagneris
Secretary

9604#053

POTPOURRI

Department of Social Services Office of Community Services

Social Services Block Grant (SSBG) Public Hearing

The Department of Social Services (DSS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the State Fiscal Year (FY) beginning July 1, 1996 and ending June 30, 1997. The proposed FY 96-97 SSBG Intended Use Report has been developed in compliance with the requirements of Section 2004 of the Social Security Act, as amended, and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the Social Security Act further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The Department of Social Services (DSS) as the designated state services agency will continue to administer programs funded under the Social Services Block Grant in accordance with applicable statutory requirements and federal regulations. The DSS/ Office of Community Services (OCS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of federal SSBG funds. Estimated SSBG expenditures for FY 1996-97 total \$46,203,849.

Louisiana through the DSS Office of Community Services will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the Intended Use Report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for State Fiscal Year 1996-97 are:

Adoption (pre-placement to termination of parental rights).

Child Protection (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals, and follow-up).

Day Care for Children (direct care for portion of the 24-hour day).

Family Services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups).

Foster Care/Residential Habilitation Services (foster, residential care and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the Intended Use Report.

Persons eligible for SSBG funded services include:

Persons, without regard to income, who are in need of adoption services, child protection, family services, and foster care/residential habilitation services.

Individuals, without regard to income, who are recipients of Title IV-E Adoption Assistance.

Recipients of Supplemental Security Income (SSI) and 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.

Low-income persons (income eligibles) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$1,625 would qualify as income eligible for services.

Persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as group eligibles.

The proposed SSBG Intended Use Report for FY 1996-97 is available for public review at OCS parish and regional offices Monday through Friday from 8:30 a.m. to 4 p.m. Copies are available without charge by telephone request to (504) 342-6640 or by writing the Assistant Secretary, Office of Community Services, Box 3318, Baton Rouge, LA 70821. Inquiries and comments on the proposed plan may be submitted until May 31, 1996 to the Assistant Secretary, OCS, at the above address.

A public hearing on the proposed SSBG Intended Use Report for FY 1996-97 is scheduled for 10 a.m. on Wednesday, May 8, 1996 at the Office of Community Services, Conference Room 806, Commerce Building, 333 Laurel Street, Baton Rouge.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed SSBG plan, orally or in writing. Written comments will be accepted through May 31, 1996.

Post-expenditure reports for the SSBG program for state fiscal years 1993-94 and 1994-95 are included in the SSBG Intended Use Report for FY 96-97 and are available for public review at the Office of Community Services, 333 Laurel Street, Room 802, Baton Rouge.

Madlyn B. Bagneris
Secretary

9604#052

POTPOURRI

Department of Wildlife and Fisheries Office of Fisheries

Freshwater Mussel Harvest (LAC 76:VII.161)

The following are changes to the freshwater mussel harvest notice of intent published in the January 1996 issue of the *Louisiana Register* and will be made a part of the final rule.

1. Subsection D.2 shall have the following two sentences amended at the end of the paragraph: "All mussels harvested shall be removed from the water daily during daylight hours only. All mussels harvested must be sold on a daily basis; mussels may not be stored in the water after sunset."

2. Subsection E.1 will amend the season dates for mussel harvesting. "Mussels may be harvested from May 20 through September 30 between official sunrise and official sunset; except that harvest of mussels will be closed on national holidays (Memorial Day, July 4th and Labor Day) and Saturdays and Sundays of each week."

3. Subsection G.2 will amend harvester reporting requirements: "Harvesters are required to submit monthly reports on forms furnished by the department whether they fished or not. These reports must be postmarked no later than the 15th day of the month following the month of harvest."

4. Subsection G.5 will be added and shall read as follows: "Each permittee harvesting mussels for sale is responsible for department notification. The permittee shall notify the department at a designated phone number (1-800-442-2511) at least four hours prior to harvesting any mussels. The permittee shall provide, at the time of notification, the parish and area to be fished each day. The permittee will be given a confirmation number at the time of initial notification."

5. Subsection G.6 will be added and shall read as follows: "Each permittee must again notify the department at 1-800-442-2511 immediately prior to selling any mussels. The permittee must report their confirmation number and the name and mussel buyer's permit number of the individual who will be purchasing mussels obtained under the permit."

Written comments on the proposed should be submitted to Bennie Fontenot, Jr., Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, May 1, 1996.

James H. Jenkins, Jr.
Secretary

9604#057

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